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United Nations Relief and Works Agency for Palestine Refugees in the Near East

Report of the Working Group on the Financing of the United Nations Relief and Works Agency for Palestine Refugees in the Near East**

Rapporteur: Ms. Berit **Enge** (Norway)

Summary

The present report of the Working Group on the Financing of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) describes the activities of the Group during 2006 and provides a detailed outline of the current financial situation of UNRWA. The Working Group unanimously adopted the report at its meeting on 13 September 2006. As in previous reports of the Working Group, the present report closes with a number of concluding remarks addressed to all Member States.

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* A/61/150 and Corr.1.

** In accordance with paragraph 1, section C, of General Assembly resolution 54/248, the present report is being submitted on 13 September 2006, following its adoption by the members of the Working Group on the Financing of UNRWA.

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I. Introduction: origin and background of the Working Group

1. The Working Group on the Financing of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) was established by the General Assembly under resolution 2656 (XXV) of 7 December 1970 to study all aspects of the financing of the Agency. In that resolution, the Assembly requested the Working Group to assist the Secretary-General and the Commissioner-General of UNRWA in reaching solutions to the problems posed by the Agency's financial crisis.

2. At the twenty-fifth session and all those that followed, the General Assembly considered the reports submitted to it by the Working Group (most recently A/60/439)[1] and adopted resolutions commending the efforts of the Working Group and requesting it to continue them for a further year (most recently, resolution 60/102).

3. The Working Group consists of the representatives of France, Ghana, Japan, Lebanon, Norway, Trinidad and Tobago, Turkey, the United Kingdom of Great Britain and Northern Ireland and the United States of America. The Chairman of the Working Group is Baki İlkin of Turkey.

II. Activities of the Working Group during 2006

4. During the year, the Working Group held three meetings, the first on 1 September 2006, at which the Director of the UNRWA Representative Office, Andrew Whitley, briefed the Working Group on the Agency's financial situation and developments facing the Agency. The second meeting was held on 12 September, during which the Working Group discussed the present report. At the third meeting, on 13 September, the report was agreed upon and adopted.

III. Financial situation of the United Nations Relief and Works Agency for Palestine Refugees in the Near East

5. The Agency's cash and in-kind regular budget for the biennium 2006-2007 was $994.2 million, of which $488.5 million was for 2006 and $505.6 million for 2007. In 2005, the Agency received $341.5 million in income for its cash and in-kind planned expenditure, leaving a funding gap of $44.7 million. The anticipated funding gap for 2006 as at 1 September was $129.1 million. The Agency's regular budget income for 2006 was expected to be some $359.4 million ($322.5 million in contributions from donors, $16.3 million in in-kind contributions, $18.1 million in income from the United Nations and $2.5 million in interest income and exchange rate gains). The project budget deficit for 2005 was $13.9 million. In 2006, it was expected to rise to $132.1 million, following incorporation of key infrastructure provisions from the Agency's medium-term plan for 2005-2009, for which funding has fallen far short of requirements.

6. As noted in the last report of the Working Group (A/60/439), the Agency's budget for the biennium 2006-2007 — whose volume increased some 30 per cent

[1] For the consideration of the most recent report of the Working Group (A/60/439), see A/60/476.

over the preceding biennium — reflects a needs-based rather than a finance-constrained approach. However, the budget incorporates not only what is required to halt the decline in service quality over the past decade brought about by underfunding, but also programme activities to meet the objectives of the Agency's medium-term plan for 2005–2009. Like the medium-term plan, the budget for the biennium 2006–2007 was developed in consultation with key stakeholders to address the increasing needs of a growing refugee population, to upgrade Agency services and rehabilitate infrastructure, including camp and shelter conditions adversely affected by years of underfunding, and to bring Agency services up to the standards of the host Governments as well as global standards set by the United Nations. On 9 September 2005, the budget was considered by the Advisory Committee on Administrative and Budgetary Questions, which recommended its approval.

7. Contributions to UNRWA in 2006 fell far short of the Agency's budgeted expenditure for that year. The Working Group noted that, in consequence, in 2006 the Agency prepared its 2008–2009 strategic framework on the basis of more measured funding expectations. At the same time, the Agency upheld its commitment to maintain current service levels and hopes to introduce certain improvements without which the scope and quality of programming would be at risk of further deterioration. The Agency, however, continued to appeal to donors to fully fund its budget for the biennium 2006–2007, as UNRWA represented the principal source of general education, primary health, social, relief and microfinance services for the refugee population. The Agency's cost-effective services constituted a vital investment in the human development and well-being of the refugees by the international community. The continued commitment of the international community to the refugees remained essential in the absence of a just and durable solution to their problem and in light of the continuing conflicts in the region which had devastating economic and social consequences for them.

8. Owing to improvements in the reimbursement of value-added tax to UNRWA by the Palestinian Authority, as at 31 December 2005, the Agency was only due $8.2 million in value-added tax reimbursements (down from $13.2 million at 31 December 2004). UNRWA, however, was concerned about port and related charges due to the Agency, exacerbated by security procedures imposed on humanitarian goods imported through Israel by the Agency. UNRWA is required to route its shipments of humanitarian goods and supplies into the Gaza Strip through the Karni crossing, except for construction materials, which enter the Gaza Strip through the Sofa crossing. The Israeli authorities continued to impose transit charges on containers moving through Karni, obliging UNRWA to pay $98,396 in 2005. In the Agency's view, the charge is a direct tax from which it ought to be exempted under the 1946 Convention on the Privileges and Immunities of the United Nations. Owing, for the most part, to repeated and prolonged closures of the Karni crossing by the Israeli authorities, UNRWA incurred excess storage and demurrage charges of $1,355,149, including demurrage charges of $788,115 for empty containers stranded in the Gaza Strip during 2005. Although restrictions on the movement of goods through the Karni crossing were attributed by the Israeli authorities to security incidents and alerts, and the movement of goods through Karni was adequate in the months immediately prior to Israel's disengagement from the Gaza Strip, the Agency considers that for substantial periods the throughput was not consistent with Israel's obligations under the Comay-Michelmore Agreement of 1967 and as provided for under article 59 of the 1949 Geneva Convention relative to

the Protection of Civilian Persons in Time of War (the Fourth Geneva Convention). The Agency has also suffered financial loss in excess of $53,900, plus interest, as a result of delays or restrictions placed by the Israeli authorities on the import of certain shipments of chemicals, vehicles and medical supplies. In the Agency's view, such restrictions violated the exemption guaranteed by the Convention on the Privileges and Immunities of the United Nations. Cumulative port charges due to the Agency at 31 December 2005 were $25,764,820, for which UNRWA had filed a claim with the Israeli authorities. The claim was subsequently written off at the recommendation of the United Nations Board of Auditors on grounds that recovery of the steadily increasing sum was unlikely. The Agency will nevertheless continue to record the port and related charges in an effort to collect the amounts due, as a legitimate claimable debt.

9. Given the importance of ensuring that resources are used as effectively and efficiently as possible, the Working Group appreciated the leadership of UNRWA Commissioner-General Karen Koning AbuZayd, who oversaw the increasingly vigorous process of reform in UNRWA. This included the landmark inaugural session on 27 February 2006 of the Agency's expanded and revitalized Advisory Commission, whose membership was more than doubled by a General Assembly decision on 8 December 2005. The Advisory Commission met again on 19 and 20 June 2006, at which time it endorsed the Agency's organizational development strategy, a comprehensive reform programme prepared in close consultation with UNRWA stakeholders, which built on the outcomes of the June 2004 Geneva conference and subsequent reforms, and benefited from substantive input from UNRWA stakeholders. The organizational development programme seeks to strengthen UNRWA management and human resources capacity, enhance its effectiveness through improved needs-assessment and programme evaluation, and further develop a results-based management and programme culture in UNRWA. The Working Group noted with appreciation the creation by the Agency of an Advisory Commission secretariat to assist the Commission in reviewing and providing input to the UNRWA programme of work and its reform process. The Working Group also noted that in the course of 2006, the Agency had begun preparations for the development of a programme management cycle which would, in the next three years, replace the current budget preparation process and establish strategic goals, including standards-setting in UNRWA core programme areas, improvement of the Agency's social safety net for the poorest refugees and a review of UNRWA food aid programmes. Noting that those far-reaching reforms would have budgetary implications for the Agency, the Working Group expressed the hope that the Agency would accelerate its efforts in addressing the reforms.

10. The Working Group recognized the need for emergency operations to continue in the occupied Palestinian territory, where humanitarian conditions had significantly deteriorated in 2006, in particular in Gaza, as the result of a severe loss of income at all levels following the appointment of a Hamas-led Palestinian Authority Government after the January 2006 legislative elections. In that regard, the Working Group noted with appreciation the holding on 1 September 2006 of an international donor conference in Stockholm. The territory's economic collapse deepened significantly after 25 June when the abduction of an Israeli soldier by Palestinian militants was followed by Israeli military incursions in Gaza, as well as a severe tightening of movement and access. The Working Group was informed in its meeting with UNRWA on 1 September that the Agency had in response revised

its initial emergency appeal for 2006 of $95 million upwards to $170 million. As at 1 September 2006, UNRWA had received firm pledges against that appeal in the amount of $104 million. The Working Group hoped that the revised appeal, which provided, inter alia, for badly needed food aid, emergency job creation and cash assistance, would be fully funded by the international community. It noted with concern the fact that 80 per cent of registered refugees in Gaza were currently dependent on UNRWA food aid for their essential sustenance and that the degree of their vulnerability and dependence had increased compared with the early years of the current unrest in the occupied Palestinian territory. The Working Group also hoped that the Agency's flash appeal for Lebanon, at the level of $7.2 million, would be fully funded. Both appeals were incorporated into the revised United Nations Consolidated Appeals Process for each respective area.

11. The Working Group noted with approval that in 2006, the Agency had prepared a comprehensive development plan for the 12 refugee camps located in Lebanon, which called for an investment of $50 million in refugee housing, sanitation and social services. Prior to the outbreak of the war on 12 July 2006, Lebanese Prime Minister Fouad Siniora had officially endorsed the plan as part of a welcome government initiative to improve the living conditions and economic prospects in Lebanon of the refugees. Following the adoption of Security Council resolution 1701 (2006) and the cessation of hostilities, the Government of Lebanon was expected to remain focused on a post-war national early recovery programme budgeted at $530 million, within which $3 million was allocated to UNRWA to carry out initial, urgent infrastructure repair in war-affected refugee camps. The Agency anticipated, however, that the camp development plan would be taken up in a multilateral forum in the near future, with the support of the Government.

IV. Concluding remarks

12. The Working Group notes with concern the large funding gap for the UNRWA regular budget in 2006 and reiterates that it is the responsibility of the international community to ensure that UNRWA services are maintained at an acceptable level in quantitative and qualitative terms and that funding keeps pace with the natural growth of the refugee population and its changing needs.

13. The Working Group commends the Commissioner-General and all UNRWA staff for their tireless efforts over the past year to maintain the services of the Agency under very difficult operational circumstances. Among the diverse obstacles faced were the consequences of the continuing conflict in the West Bank and Gaza Strip and the hostilities in Lebanon, as well as ongoing access problems. It also commends the Commissioner-General for her fund-raising efforts and her commitment to keeping the major donors and host authorities informed and involved, opening new avenues of support and funding and seeking a broader base of donors. The Working Group encourages UNRWA to continue its efforts to widen the donor support base.

14. The Working Group calls for the early and complete fulfilment of pledges and other commitments to UNRWA, in particular the reimbursement of value-added tax by the Palestinian Authority and port and related charges by the Israeli Government.

15. The Working Group urges the international community to fully fund the budget for the biennium 2006-2007, as it will enable the Agency to reverse the effects of

successive years of underfunding, to bring services up to host Government standards and to build additional capacity within UNRWA. It notes with great concern that at 1 September 2006, only 64 per cent of the budget for 2006 has been funded, with likely adverse consequences for the level of services provided to over 4.3 million registered Palestine refugees. The Working Group continues to believe that UNRWA plays a vital role in preserving the stability and security of the region. Adequate funding of the Agency's programmes in accordance with the changing needs of the refugee community and in line with the comparable level of services provided by host authorities to their own citizens is essential to ensuring this. The Working Group welcomes the Agency's strengthened focus on strategic planning, monitoring and evaluation of programmes and commitment to results-based management, ensuring the most effective use of donor funds and a stronger emphasis on well-defined outcomes. It urges UNRWA to continue to cooperate closely with other United Nations agencies that have been through reform efforts in order to benefit from their experiences and obtain possible synergies with a cost-saving potential.

16. In view of the growing humanitarian crisis in the occupied Palestinian territory, the Working Group recognized the essential humanitarian role the Agency's emergency operations in the occupied Palestinian territory played in alleviating the hardship of the refugees and preventing an even greater decline in their living conditions, and urges the international community to fully fund the Agency's revised Emergency Appeal for 2006.

17. The Working Group called upon the Israeli Government to accord free and unfettered access to the Agency, in particular in the Gaza Strip, where regular closures of the limited number of commercial crossings had hampered UNRWA humanitarian operations.

18. The humanitarian problems faced by the Palestinian refugees currently must be addressed as a shared international responsibility pending a final and comprehensive settlement of the Israeli-Palestinian conflict in accordance with international legality, including relevant United Nations resolutions. The services provided by UNRWA must be viewed as the minimum required to enable the refugees to lead productive lives. Any further reduction in those services, in combination with the constantly increasing number of the refugees, would not only unfairly deprive them of the minimum level of support to which they are entitled as basic human rights, but could also have a destabilizing effect on the entire region. Above all, the Working Group expresses the hope that the international support for UNRWA embodied in the resolutions adopted each year by the General Assembly, in which the Assembly recognizes the importance of the work of the Agency, will be translated in practice into increased support to ensure the continuation of the Agency on a sound financial basis.

19. The Working Group strongly urges all Governments to bear in mind the foregoing considerations when deciding upon the level of their contributions to UNRWA for 2006, and once again:

(a) Urges those Governments that have not yet contributed to UNRWA to do so on a regular basis;

(b) Urges Governments that have so far made only relatively small contributions or contributions that have not kept up with increased needs to raise the level of their contributions;

(c) Urges Governments that in the past have made generous contributions to UNRWA to continue to do so in a timely manner and to strive to increase them;

(d) Urges Governments that traditionally have shown special interest in the welfare of the Palestine refugees, both in the region and beyond, to begin contributing or to increase their contributions;

(e) Urges Governments to fully fund the Agency's budget for the biennium 2006-2007 and to consider making special contributions in support of the strategic planning initiatives the Agency has launched with its medium-term plan, so that the Agency can bring UNRWA services up to levels prevailing in the host authorities, and to ensure that donor support of emergency-related and special programmes or capital projects does not in any way decrease or divert contributions to the Agency's regular programme.

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Promotion and protection of human rights: human rights questions, including alternative approaches to improving the effective enjoyment of human rights and fundamental freedoms

United Nations Human Rights Training and Documentation Centre for South-West Asia and the Arab Region

Report of the Secretary-General*

Summary

In its resolution 60/153 of 16 December 2005, the General Assembly requested the Secretary-General and the Office of the United Nations High Commissioner for Human Rights to give their support to the establishment of a United Nations human rights training and documentation centre for South-West Asia and the Arab region, to conclude an agreement with the host country regarding its establishment and to make available resources for the establishment of the centre. The present report provides an overview of the activities carried out by the Office of the High Commissioner towards the establishment of the Centre in cooperation with the authorities of the host country, Qatar. This includes allocation of financial and human resources, submittal by the Office of the High Commissioner of a draft agreement with the host country, selection of a building to establish the Centre and launching the recruitment process of one international staff. The report identifies some of the pending issues while concluding that the opening of the Centre in 2006 remains achievable.

* This report was submitted after the deadline given in the relevant resolution of the General Assembly so as to include as much up-to-date information as possible.

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I. Background

1. The process to establish a United Nations human rights training and documentation centre for South-West Asia and the Arab region was initiated at the Twelfth Workshop on Regional Cooperation for the Promotion and Protection of Human Rights in the Asian-Pacific Region, held in Doha from 2 to 4 March 2004, where the Government of Qatar offered to host the Centre in Doha. A number of intergovernmental meetings as well as the Commission on Human Rights in resolution 2005/73 of 20 April 2005 welcomed the proposal to establish the Centre. The Strategic Management Plan of the High Commissioner for Human Rights for 2006-2007 mentioned the Centre as one of the field presences of OHCHR that would contribute to implement the trans-regional strategy.

2. On 16 December 2005, the General Assembly by its resolution 60/153 requested the Secretary-General and the Office of the High Commissioner to give their support to the establishment of the Centre with the mandate "to undertake training and documentation activities according to international human rights standards and to support such efforts within the region by Governments, United Nations agencies and programmes, national human rights institutions and non-governmental organizations". The Centre will contribute to "the continuing cooperation and assistance of the Office of the United Nations High Commissioner for Human Rights in the further strengthening of the existing regional arrangements and regional machineries for the promotion and protection of human rights, in particular through technical cooperation which is aimed at national capacity-building, public information and education, with a view to exchanging information and experience in the field of human rights". The resolution makes an explicit reference to the World Programme for Human Rights Education, the implementation of which began on 1 January 2005.

3. Several Governments in the region, non-governmental organizations (NGOs) and United Nations agencies have encouraged OHCHR to establish the Centre. Governments recognize the need to encourage democratic reform, good governance, strengthening of the rule of law and the promotion and protection of human rights. They perceive the Centre as an asset in this respect. NGOs in the region have expressed hope that the presence and activities of the Centre will strengthen civil society and contribute to facilitate its participation in human rights programmes and activities.

II. Concept

4. The functions of the Centre will be exercised as mandated by the General Assembly and in line with the High Commissioner's own mandate, as defined in resolution 48/141 of 20 December 1993, the Plan of Action submitted by the High Commissioner in 2005 (A/59/2005/Add.3) and the High Commissioner's Strategic Management Plan for 2006-2007, as well as OHCHR regional strategies. The Centre will operate in partnership with governmental, intergovernmental, and non-governmental institutions, and in full independence from any government. The administrative, financial, procedural, personnel and other organizational structures will follow the rules applicable to the United Nations Secretariat. At the request of OHCHR headquarters and OHCHR regional representatives, it may conclude and implement technical cooperation agreements.

5. The Centre shall be located in Doha, Qatar. The Centre will encourage broad participation of countries of South-West Asia and the Arab region to participate in its activities, both of a regional and/or country-specific nature. The primary languages of activities will be English and Arabic, with the possibility to conduct activities in French, or other relevant languages. Training activities may use online technologies for Virtual Learning Environments while the documentation should include online access to digitized documents and catalogues.

6. It is understood that the Centre, which covers countries falling under three of OHCHR geographical units (Africa, Arab region and Asia-Pacific), will work in close coordination with the regional representatives in the field, heads of country offices, human rights units of peace missions and coordinators of regional units at OHCHR headquarters. The Centre will work particularly in close cooperation with and under the guidance of the Regional Office in Beirut for activities in the Arab region. Though the Centre differs on several accounts, including its mandate, from the Subregional Centre for Human Rights and Democracy in Central Africa located in Yaoundé, there will be room for exchanges of experience or development of common learning and documentation tools.

7. The Centre will report to the High Commissioner for Human Rights on the activities it carries out, pursuant to its mandate and functions, as well as on the circumstances that would have facilitated or impeded its work. It will also propose recommendations on future actions.

III. Functions of the Centre

8. With the overall objective of disseminating and strengthening a human rights culture and increasing human rights expertise at the regional and national levels, the Centre will contribute to address specifically two of the four implementation gaps identified in the High Commissioner's Plan of Action, namely, the knowledge gap and the capacity gaps of rights-holders and duty-bearers (A/59/2005/Add.3, paras. 24-27).

9. As prescribed by its mandate and under the authority of the High Commissioner, the Centre will provide training and expertise on reporting procedures to treaty bodies, and assistance in preparing user-friendly tools and manuals as well as training of trainers for Government officials, relevant professional groups (lawmakers, law enforcement officials, lawyers and the judiciary, social services, education experts) and other stakeholders.

10. The Centre will develop information and documentation systems on human rights, especially in the Arabic language. This includes (a) establishing a reference library of documents and publications on human rights in Arabic and other relevant languages; (b) building computerized databases on intergovernmental organizations, key governmental departments relevant to the rule of law and human rights, NGOs, status of treaty ratification; (c) reporting on and translating human rights documents; and (d) developing an advanced website and research facilities.

11. The Centre will work with national human rights institutions. This includes (a) strengthening existing institutions by training their staff; (b) supporting networks among, or meetings of, various national human rights institutions; and (c) providing publications and information on the international human rights system.

12. The Centre will contribute to strengthening civil society by supporting the capacity-building of NGOs, and collaborating with universities and centres for human rights education and research. The Centre will help NGOs' networking efforts, support the implementation of joint projects and provide ad hoc grants, if funding can be secured.

13. To contribute to the implementation of the World Programme for Human Rights Education launched in 2005, the Centre will devote particular attention to human rights education programmes and professional training programmes according to international and national human rights standards. It will advise State and non-governmental entities on such programmes and will cooperate with the media, develop public awareness campaigns and organize public human rights events. If funds are available, the Centre would also establish a grant programme for human rights activities in schools.

14. Specific activities will be developed for regional and subregional intergovernmental organizations such as the League of Arab States, the African Union, the Gulf Cooperation Council, the Union of Maghreb States, and the Organization of the Islamic Conference in order to contribute to human rights training and education activities within their policies and those of their Member States. This includes exchanging information, providing training courses to staff members of these organizations, assisting in building their documentation and implementing joint events in relation with the Centre's mandate.

IV. Implementation of the resolution

15. As required by resolution 60/153 of the General Assembly, staff and financial resources were allocated by OHCHR for the current biennium (2006-2007). The Centre will be headed by one international staff at P-4 level and two locally recruited staff, to be financed from extrabudgetary resources. OHCHR initiated the recruitment process of the international staff who will start the local recruitment of the two additional staff upon deployment in Doha. The current staffing level is based on an assessment of the workload during the inception period. This does not preclude the possibility of revisiting the size and level of the staff, were the workload to develop faster than expected. The permanent staff will rely on external resource persons and partner institutions to assist in delivering training. The permanent staff will also seek partnerships to establish a documentation and resource centre, possibly with a university in Doha. As it expands its activities, the Centre could also consider creating positions for Junior Professional Officers.

16. In line with the estimated workload, extrabudgetary resources amounting to 255,320 United States dollars (excluding the 13 per cent management fees), were allocated for the 2006-2007 biennium. These decisions can be revised as the Centre proceeds with its activities, and once OHCHR is in a position to gauge the response the Centre elicits and the support it receives from its local, regional and international partners.

17. OHCHR submitted a draft agreement with the host country on 2 June 2006, and is now expecting formal comments from the Government of Qatar. OHCHR has been informed by the Government of Qatar and the Office of the Legal Counsel that the ratification of the Convention on the Privileges and Immunities of the United Nations is at an advanced stage. Qatar also indicated that the ratification of the

Convention on the Privileges and Immunities of Specialized Agencies is under consideration as OHCHR intends to involve specialized agencies of the United Nations in the activities of the Centre. The Office of the Legal Counsel has pointed out that it is preferable that the host country be party to both Conventions.

18. OHCHR undertook a mission to Qatar in June 2006 to move ahead towards the agreed goal of inaugurating the Centre in 2006. The mission of OHCHR continued the dialogue with Qatari counterparts on pending issues such as the draft agreement, staffing, location of the documentation facility and partnerships with institutions in Qatar and elsewhere in the region. The mission was able to reinforce previous contacts and to identify new potential partners from civil society and public institutions and to establish links with the Regional Office in the Arab States of the Gulf of the United Nations Educational, Scientific and Cultural Organization. Several partners reiterated their keen interest in the opening of the Centre and their readiness to cooperate to address knowledge and capacity-building needs.

19. With support from two representatives of the Department of Security and Safety, the mission clarified United Nations security requirements for its premises and visited several buildings with Qatari counterparts. After the mission, OHCHR confirmed in writing to the Government of Qatar its interest in one of the buildings to allow the authorities to rent it as part of their envisaged contribution for the Centre.

V. Conclusion

20. **The preparations for the establishment of the United Nations human rights training and documentation centre for South-West Asia and the Arab region are now at an advanced stage and OHCHR remains convinced that it can start its operations by the end of 2006.**

21. **OHCHR is looking forward to its growing cooperation with the authorities of the host country and welcomes their offer to provide premises free of charge and to facilitate missions, thus continuing the cooperation that has taken place over the past years. OHCHR is equally looking forward to finalizing the host country agreement, preferably after the Government of Qatar ratifies the two Conventions on the Privileges and Immunities of the United Nations and Specialized Agencies, as well as a medium-term funding agreement. The latter would facilitate the planning of activities and the development of a documentation and training facility of regional importance.**

22. **OHCHR and the host country encourage other countries, from the area and beyond, to contribute to the funding of the Centre so that it can rapidly become an institution of reference in the field of human rights training and documentation, benefiting the people of South-West Asia and the Arab region.**

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Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Situation of human rights in the Democratic People's Republic of Korea

Note by the Secretary-General*

The Secretary-General has the honour to transmit to the General Assembly the report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea, Vitit Muntarbhorn.

* The present report was submitted after the deadline so as to reflect the most updated information.

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Report of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea

Summary

The mandate of the Special Rapporteur on the situation of human rights in the Democratic People's Republic of Korea was established by Commission on Human Rights resolution 2004/13. It was extended in 2006 by Human Rights Council decision 1/102 for one year. Since the inception of the mandate, Professor Vitit Muntarbhorn has been the Special Rapporteur, and this report covers the situation of human rights in the country in 2005-2006, particularly until August 2006.

While welcoming the fact that the Democratic People's Republic of Korea is a party to various human rights treaties and that it has engaged with the monitoring bodies under those treaties, as well as adopting some key reforms of its domestic law such as its criminal law, there is still a huge gap between formal recognition of human rights and substantive implementation of human rights in the country. The situation in the country provides continuing cause for concern — there are still many transgressions and discrepancies of an egregious nature which require effective redress.

There are major challenges in regard to the rights to food and to life, the rights to security of the person and humane treatment, the rights to freedom of movement, asylum and refugee protection, and various political and other rights such as those to self-determination, freedom of expression, association and religion. Specific concerns raised in this report include women's rights, particularly violence against women, child rights, particularly child protection and participation, the rights of older persons/the elderly, the rights of those with disabilities and the ethnic issue.

In the middle of 2006, the situation became more tense owing to the missile tests launched by the Democratic People's Republic of Korea in the face of global opposition. This influenced various contributors of the humanitarian aid destined for the country to reconsider that aid. Major flooding in the country also had serious impact on the population. Meanwhile, several countries which had previously provided refuge to the citizens of the Democratic People's Republic of Korea became less lenient in their approach, resulting in a negative impact on the protection of refugees in the region.

Various conclusions are provided at the end of the report, with key recommendations addressed to the country concerned, complemented by other recommendations addressed to the international community.

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I. Introduction

1. This report covers the situation of human rights in the Democratic People's Republic of Korea for the period 2005-2006, particularly until August 2006. The Special Rapporteur wishes to thank all governmental, non-governmental, intergovernmental and other entities for their assistance in providing some of the information used in this report. It is regrettable that, to date, the authorities of the Democratic People's Republic of Korea have declined to invite him into the country, despite several requests from the Special Rapporteur to visit the country. His approach remains constructive, thus inviting the country to view this mandate as a window of opportunity to engage with the United Nations system.

2. The Special Rapporteur welcomes the fact that the country is a party to four key human rights treaties — the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention for the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child — which offer a solid basis for the country to promote and protect human rights. It is also hoped that the negotiations between the various international players to denuclearize the Korean peninsula will resume and provide a key opportunity to build the trust and confidence which will provide additional space for the improvement of the human rights situation.

II. Situation of human rights

A. General concerns

3. First, with the regard to the rights to food and to life, it can be recalled that the country has been hampered very severely by food shortages since the mid-1990s, mainly due to natural disasters and mismanagement on the part of the authorities. Traditionally, the people of the country were accustomed to a public distribution system of food being handed out by the State as part of social welfare. However, this collapsed in the 1990s and in 2002 the rations started to be suspended due to the new Economic Management Improvement Measures policy of the authorities. The new policy presumed that the people would have to buy food for themselves directly on the basis of higher wages and a move towards a market system whereby agricultural and other produce would be traded. However, this led to a substantial rise in prices, with particularly negative impact on many members of the urban population who were unable to fend for themselves.

4. In recent years, the country has had to depend upon food and other humanitarian aid provided by multilateral and bilateral donors. Interestingly, that practice has been commented upon as follows:

> If the North Korean government's refusal to reach out in the early 1990s amounted to a sin of omission, then its behaviour once aid began flowing in 1996 constitutes an equally disturbing set of sins of commission. As aid began arriving, the country simultaneously moved to reduce its commercial imports of food. This curious feature of North Korean behaviour — while the famine was continuing to take its toll — has not previously received the attention it deserves. Rather than use aid to supplement local production and commercial imports, aid has substituted

> for, or "crowded out", commercial imports. North Korea, in effect, has stopped importing grain through commercial routes. As a result, over the last several years, more than 90 percent of the grain brought into North Korea has been in the form of aid or concessional imports. Another way of casting these observations is in terms of the government's priorities. Rather than using humanitarian assistance as an addition to domestic production and commercial sources of supply, the government has used aid largely as balance-of-payments support, allowing it to allocate the savings in commercial imports to other priorities, including military ones and luxury imports for the elite. For example, in 1999, at the same time that it was cutting commercial grain imports to less than 200,000 metric tons, the government allocated scarce foreign exchange to the purchase of 40 MIG-21 fighters and 8 military helicopters.
>
> Moreover, one could argue that aid had another "crowding-out" effect of reducing pressure to undertake reform of the agricultural sector. The failure of domestic production to return to even its 1990 level is evidence not only of the collapse of inputs, but of the halting nature of market-oriented and incentive-based reforms.[1]

5. That tenuous situation should be placed in context.[2] Despite an improved harvest in 2005, the country is still short of food. There is a need for continuing food and other aid from outside the country, and sustaining the presence of foreign aid agencies to carry out the task of helping with the distribution, with adequate monitoring to ensure that the aid reaches the target groups. In late 2005, the World Food Programme (WFP), the United Nations agency channeling food aid into the country, had access to 160 counties/districts representing 87 per cent of the total civilian population, with no access to 43 counties (out of a total of 203 counties). On average, the intended beneficiaries numbered some 6.5 million people. However, in 2005 some 2 million people were already affected by cereal cuts and shortages in food donations from the outside.

6. The Democratic People's Republic of Korea has shown a preference for bilateral aid from countries in the vicinity and there is a need to ensure complementarity between bilateral and multilateral aid, particularly in guaranteeing access to the intended beneficiaries and effective monitoring to preventing leakage. The country's shift from accepting humanitarian relief to its current call for a development framework of a broader nature also invites reflection; it should be coupled with a strategy to incorporate human rights comprehensively into the programming process — a rights-based approach.

7. On a worrisome note, in late 2005 the authorities were no longer permitting the various markets to operate, thus banning sales of cereals, partly because of the authorities' fear that they were losing their hold on the economy, and partly as a means of reasserting their grip over the population, thereby reverting to the public distribution system. There was a doubling of average cereal rations, from 250 to 500 grams per person. From information received, those at work or who were involved in food-for-work programmes were likely to receive more food than those not falling into the category, thus increasing the latter's vulnerability — particularly children, pregnant women, older persons/the elderly and those with disabilities.

8. Also in 2005 the authorities indicated that they no longer wished to accept (multilateral) food aid from outside the country and that they wished to end the

presence of foreign humanitarian agencies, particularly those from civil society. In late 2005, it was uncertain whether the authorities would allow WFP to continue delivering food aid to the population, and several sub-offices of WFP and related food-processing plants in the country had to be closed down. Many non-governmental organizations involved in humanitarian aid were asked by the authorities to leave the country. Nevertheless, in early 2006, WFP sought approval from international donors for its "Protracted Relief and Recovery Operation". The target beneficiaries are as follows:

> (The programme) aims to target 75,000 metric tons (mt) of food each year (i) to the most food-insecure parts of the Democratic People's Republic of Korea where bilateral food aid is not sufficient and (ii) to areas susceptible to natural disasters where food production is limited and mountainous land predominates. Fifty accessible counties have been identified for intensive food for community development support and for school feeding.
>
> Targeted vulnerable populations include under-employed urban people, non-farm rural workers, people in isolated regions and selected food-deficit cooperatives and institutions. Nation-wide coverage of all accessible counties will continue as in the emergency operations for beneficiaries in orphanages and child in-patients in hospitals. All counties will be targeted for mother and child health activities for pregnant and lactating women and children at nursery schools and kindergartens, but only in ri and dong identified as vulnerable; this will be on average 50 percent of the emergency operations coverage. (Ri and dong are the lowest administrative units of the Democratic People's Republic of Korea; ri are in rural areas, dong are in urban areas.)
>
> In previous years, WFP had supported elderly people and mothers accompanying children in hospitals, but this will no longer be feasible given the reduced scale of the operation. Groups previously targeted as most food-insecure urban households will be reached through food for community development, but on a reduced scale. Food for community development activities are increasing in towns; members of urban households may also participate in projects in nearby rural areas. (WFP/EB.1/2006/8/3, paras. 38-41)

9. In May 2006, it was reported that WFP would be able to distribute a limited amount of food aid to 1.9 million of the "most needy" persons, but only to the extent of 75,000 tons of grain a year, as compared with 500,000 per year previously.[3]

10. There was a further obstacle in July 2006 due to the missile tests launched by the authorities of the Democratic People's Republic of Korea in the face of global opposition. On the one hand, this irresponsible act resulted in the unanimously adopted Security Council resolution 1695 (2006) voicing disapproval — demanding that the country suspend all missile activity and return to the "six-party talks" (involving six countries) aimed at the denuclearization of the Korean peninsula, in addition to imposing a partial arms embargo. On the other hand, the missile tests had a negative impact on the food situation of the country, since they caused various contributors of humanitarian aid to discontinue providing that aid. Those tests were a serious waste of precious national resources, which should have been spent on alleviating food shortages and responding to the plight of the population.

11. Concurrently, matters became more complicated due to devastating floods in the country that caused substantial damage and loss of lives in July and August 2006. Owing to this humanitarian crisis, some of the contributors of humanitarian aid changed their position and were willing to resume provision of aid, particularly at the bilateral level. However, from information received, the Democratic People's Republic of Korea turned down the WFP offer of additional food aid in regard to the recent floods, which had catastrophic impact on the year's crops.

12. To guarantee food security, there is also a need to move towards more sustainable agricultural techniques which are environment-friendly, given that the country suffers from limited arable land and over-exploitation of such land. In addition, it cannot be overstated that the excessive expenditure by the authorities on its defence sector based upon the country's "military-first" policy causes serious distortions in the national budget and its use of national resources; it is a key impediment to the country's development process as well as the rights to food and life and other rights.

13. As voiced by a recent Human Rights Watch analysis:

> The right to be free from hunger is not only a core humanitarian concern, but also a human rights imperative. Although it has espoused a policy of extreme self-reliance and isolation from the world, North Korea has also joined the keystone international treaties that make up a universal bill of human rights. It is bound by international law to dedicate available resources — including available foreign aid — to ensure its population's right to adequate food.
>
> The international community has recognized the right to adequate food and to the highest attainable standard of health in the International Covenant on Economic, Social and Cultural Rights, to which North Korea is a party. This right is so fundamental to human dignity that the United Nations body responsible for interpreting and evaluating compliance under the treaty has required even the poorest countries to commit themselves to providing a minimum level of food to the extent of their available resources, including available foreign aid.
>
> Moreover, states are obliged to ensure that the rights to food and health are guaranteed without discrimination of any kind as to political or other opinion, national or social origin, property, birth or other status. If it is to comply with its treaty obligations, the government of North Korea must not rely on a distribution system which is designed to reward loyalty to the state and punish those who are perceived as less politically deserving of state protection. At the very least, North Korea should accept WFP's new offer of assisting 1.9 million of the country's most vulnerable people. If it does this, and distributes all available food equally and fairly, in the short term the country may be able to curtail hunger and avoid another devastating famine should future harvests fail.[4]

14. Second, there is the question of the rights to security of the person, humane treatment, non-discrimination and access to justice. Given the non-democratic and repressive nature of the State, there continue to be many reports of transgressions by the authorities on this front, despite reforms of the Criminal Code and Criminal Procedure Code in 2004.

15. The judicial system lacks independence and is heavily influenced by the regime in power. In addition to the opaque nature of the ordinary courts, there is a parallel quasi-penal regime which does not comply with rule of law guarantees such as judicial independence, natural justice, respect for the rights of the accused and access to lawyers. This system can be described as follows:

> In addition to its Penal Code (and Criminal Procedure Law), North Korea operates a separate criminal justice system in order to exercise control over its people. One of these "quasi-judicial systems" is the "Social Safety Control Law". Article 1 of the law says, "The purpose of this law is to contribute to the protection of the people's life, property and constitutional rights and to safeguard national sovereignty and the socialist system of the DPRK"...
>
> Other quasi-justice systems North Koreans are subject to without going through the regular justice system will include the "comrade judgement committees" and "socialist lawful living guidance committees". These quasi-justice systems do in fact perform legal functions and the source of their authority is found in North Korea's Prosecution Supervision Law. Article 40 of the law lists cases, in which the prosecutors will decide to rectify law violations or pursue legal responsibilities. Section 3 of the article lists cases the prosecutors should determine "whether to turn them over to preliminary examinations, or refer them to the 'comrade judgement committee', the 'socialist lawful living guidance committee', 'labour training', or 'imprisonment'".
>
> The "comrade judgement committee" is not simply an auxiliary body under the national justice system. It is an independent and unique type of people's trial, in which ideological struggles are instilled through open and public self-criticism. These committees are organized at all levels of national agencies, workplaces and units throughout the regions and districts. ... It would appear that only those who were involved in unethical, immoral conduct or minor crimes would be referred to these forums.
>
> Another informal justice system is the so-called "socialist lawful living guidance committee". ... First, the committee on its own responsibility will organize and uniformly carry out various inspections over administrative and economic agencies, workplaces and other supervisory bodies. Second, it will perform the duty of educating the workers in its area so that they will observe the laws. Third, it will decide various policies and levels of punishment for social and economic crimes. Fourth, the committee will have authority of interpretation on various disputes and misunderstanding that may arise between and among the related agencies in the course of executing laws and regulations. ...
>
> Finally, the "safety committee" is another quasi-justice system that gets involved in the process of punishing North Korean citizens. At the Party Headquarters, the committee consists of the Party Secretary, Director of Party Organisation Guidance Department, Ministry of People's Security, the State Security Agency, Chief Justice of the Central Court, and Chief Prosecutor of the Central Prosecutor's Office. ... The committees at the Party levels are directed to exercise proper controls over various projects.

> strictly guide and control all social safety activities of the judicial and prosecutorial agencies by routinely discussing the social safety projects and judicial prosecutorial projects.[5]

16. The treatment of prisoners, particularly political prisoners, gives rise to continuing concern, with reports of a wide range of detention centres and prisons with appalling conditions and use of torture, inhuman and degrading treatment, despite a ban on such practices under the country's criminal law. The incarceration system is as follows:

> The criminals sentenced to correctional punishment are typically economic or violent criminals, rather than political criminals, and would be detained in the correctional centres managed by the correctional bureau of the People's Security Agency. In addition to official correctional facilities, North Korea has been criticized for operating political concentration camps, collection points and labour training camps. Political criminals are incarcerated in *kwanliso* operated by the "farm guidance bureau" of the State Security Agency... At the People's Security Agency the camps that hold former high-ranking officials are also called *kwanliso*. ... *Kyohwaso* are among the facilities that the Ministry for Public Security manages, and they can be likened to correctional institutions or prisons. These institutions hold persons found guilty of the most serious crimes. People who have been sentenced by a court to death or penal servitude are held in these facilities, and each North Korean province contains one or more of these facilities.[6]

17. On another front, the issue of abductions of foreigners carried out by the agents of the Democratic People's Republic of Korea has affected several countries. A number of cases in regard to Japanese nationals abducted by those agents have yet to be resolved and require effective measures and political will, particularly on the part of the Democratic People's Republic of Korea, to ensure that there is peaceful resolution of the issue, coupled with transparency and action against impunity. According to Japan, the number of abducted victims is 16; 5 members of that group have now been returned to Japan. An update on the negotiations between the two countries is outlined by a Japan Ministry of Foreign Affairs report:

> On two occasions, in November and December 2005, governmental consultations between Japan and the Democratic People's Republic of Korea were held after a break of approximately one year. Based on an agreement reached at these consultations, the Japan-Democratic People's Republic of Korea Comprehensive Talks (consultations on issues of concern including the abduction issue, consultations on security issues, and the normalization talks) were held in Beijing from February 4 to 8, 2006. Consultations on the abduction issue lasted a total of approximately 11 hours and Japan once again strongly demanded the repatriation of living abductees, a promise from North Korea to launch a new investigation aimed at revealing the truth about what happened, and the handing over of those responsible for abduction...
>
> In response, the North Korean side repeated the same explanation it had given before to the effect that "all of the living abductees have already returned to Japan". Regarding a renewed investigation, the North Korean side insisted that it had investigated the matter in good faith, stood by the

> results of that investigation, and did not even promise to continue investigations into the whereabouts of the abductees that are still unaccounted for. Regarding the handing over, the North Korean side insisted that it was a political issue and refused to hand them over.[7]

18. In 2005, there were reports of other countries affected by abductions carried out by the agents of the Democratic People's Republic of Korea. These included Thailand. The visit of the Special Rapporteur to the Republic of Korea in 2005 also revealed large numbers of persons missing from the country who may have been abducted by agents of the Democratic People's Republic of Korea, the details of which can be found in his 2006 report (E/CN.4/2006/35), which was presented orally to the Human Rights Council in 2006. The admixture of cases and countries affected by the misdeeds of the agents of the Democratic People's Republic of Korea can be seen in the following appraisal:

> Since the Korean War, an estimated 489 South Koreans have been seized, most more than twenty years ago. A fisherman captured by the North in 1969 was briefly united with his wife after 37 years, though North Korean authorities almost cancelled the reunion when a South Korean reporter covering it used the word "kidnapped" to describe the abduction. The government's hand was at least partially forced when genetic tests in Japan proved that the husband of Japan's most famous abductee ... was a South Korean abducted in 1978 at the age of sixteen. The North allowed (the) father and daughter (of the Japanese abductee) to attend a family reunion in June 2006.[8]

19. The above pattern of incidents and cases underline major transgressions of human rights. It is imperative for the Democratic People's Republic of Korea to improve not only the formal entry points for human rights, such as guarantees under its Constitution and criminal law, but also the substantive practices interrelated with the will of the political system and the capacity of its officials to implement human rights effectively.

20. Third, there is the issue of freedom of movement, asylum and refugee protection. Throughout 2005/06, there were reports of potential or actual forced return ("refoulement") of nationals from the Democratic People's Republic of Korea — who had sought asylum in neighbouring countries — to that country without adequate guarantees of safety. The less lenient approach of some countries of first asylum in South-East Asia (in offering asylum to those fleeing the Democratic People's Republic of Korea) also led to an increased influx in other South-East Asian countries.

21. In regard to the country of origin, while the Constitution of the Democratic People's Republic of Korea provides for freedom of movement of its people, the reality is the contrary since there is rigid control over migration. Generally it is not possible to move internally or externally without official permission — there is the impending threat of penal sanctions. While its criminal law was improved in 2004 to reduce sentences on those who leave the country without permission, the threat of punishment facing those who leave without permission and who are then forcibly returned to the country is ever-present and gives rise to potential or actual fear of persecution caused by the authorities.

22. This is interlinked with the issue of refugee protection, the refugee being understood internationally as a person who has left his or her country of origin for a well-founded fear of persecution. A key principle in international law in this regard is the right of non-refoulement — not to be pushed back to a country/area where a person may fear persecution. While those entitled to refugee status are often those who have left the country of origin with a fear of persecution, even those who did not originally leave the country of origin with a fear of persecution but who later fear persecution (such as through the threat of punishment if sent back forcibly while in an asylum country) can also be classified as refugees (in technical terms: refugees *sur place*). Many of those who have left the country in search of food and economic opportunities in neighbouring countries fall into the latter category, since they may fear persecution if sent back to the country; there is the threat of interrogation and penal sanctions awaiting them for having left the country without permission.

23. The communications which the Special Rapporteur sent to the Democratic People's Republic of Korea seen in "Communications" (paras. 48-58) below, exemplify the need for refugee protection and humane treatment upon return to the country of origin. To date, the authorities of the country have been uncooperative in regard to these communications. There is also a key challenge in working with neighbouring countries so as to ensure that they abide by international law, especially the principle of non-refoulement and to enable the main United Nations agency dealing with refugees — the Office of the United Nations High Commissioner for Refugees (UNHCR) — to access those who have sought asylum, given that asylum by its very nature usually involves two countries — the country of origin of the person seeking asylum and the asylum country. This is closely linked to immigration law and related bilateral arrangements between those countries.

24. Regrettably, there is a tendency among some countries of first asylum to apply their immigration laws stringently by classifying those who seek refugee status (or asylum-seekers) as illegal immigrants, prosecuting them in court for illegal entry, and or subjecting them to deportation, push-back and or "refoulement" to the country of origin. This is an unbalanced approach which should be rectified. There is a key difference between refugees and illegal immigrants: while the latter are still protected by their country of origin, the former are not and thus fall under international protection. Precisely because refugees are not protected by their country of origin, there is a need to treat them humanely and to deal with them as humanitarian cases; they should not be subjected to the status of illegal immigrants imposed by the immigration laws of the countries where they seek refuge or asylum.

25. As asylum-seekers or refugees are unlikely to have immigration documents such as passports, visas and exit or entry permits, the following type of bilateral arrangement may undermine their protection. It should be critically analysed to ensure that it abides by international law — highlighting the need to avoid criminalizing innocent people who need protection and humane treatment:

> "Article ...
>
> Both sides shall mutually cooperate on the work of preventing the illegal border crossing of residents.
>
> In the case of crossing the border without possession of a legal certificate or without passing through screening agencies or the passage place stated

on the possessed certificate, the individual shall be treated as an illegal border-crosser. However, any person of the other side who enters the boundaries of one side due to any kind of calamity or unavoidable factors shall not be considered an illegal border-crosser. A person possessing a border resident pass who comes into a non-border area with permission of public security and an entry/exit bureau shall not be considered an illegal border-crosser.

Regarding individuals who illegally cross the border, depending on the situation, a name list or relevant materials shall be turned over to the other side. However, in case of there being a criminal act after the border is crossed, it shall be handled according to the laws of the individual's country, and the other side shall be notified of the situation."

26. Various clauses above may need to be adjusted to ensure their consistency with international law, as they could regrettably lead to "refoulement" of those who seek asylum. In practice, the law enforcers, especially immigration officials and border guards, need to be instructed and trained to respect international law on the issue of refugee protection and asylum.

27. On another front, there is the issue of international responsibility-sharing or burden-sharing. The root causes of displacement need to be addressed effectively first and foremost in the country of origin. In the case of asylum-seekers from the Democratic People's Republic of Korea, it is the repressive regime of the State of origin, with its resultant human rights violations, which is the major root cause of refugee outflows. Once those seeking asylum arrive in the countries of first asylum, it is essential that these countries accord at least temporary refuge to them, with due respect to their human rights. Asylum-seekers should have access to the necessities of life in keeping with international human rights standards. For instance, it is essential to ensure birth registration of the children and access to at least primary education. Occupational opportunities should also be available so that those above the minimum age of employment can be involved in work/productive activities. Given that some countries are already exploring employment opportunities for migrant workers from other countries, in addition to regularization of their status, parallel measures may be adopted to help asylum-seekers lead a fruitful existence.

28. Where such countries are unable to offer long-term local solutions, such as local settlement, it is incumbent upon the international community to share in the responsibility for providing longer-term solutions such as resettlement and, in appropriate cases, voluntary repatriation to the country of origin with guarantees of safety. This will also create a sense of mutual confidence so that the countries of first asylum will not be impelled to take drastic measures for fear that the mass influxes of those seeking asylum will destabilize their modus vivendi. On a welcome note, some countries are now opening the door to resettle refugees from the Democratic People's Republic of Korea both directly from first-asylum countries and/or via a third country, supported by national legislation on the issue.

29. Fourth, with regard to the right to self-determination and to political participation, access to information, freedom of expression, belief and opinion, association, conscience and religion, there was no ostensible improvement during the year. The opaque and non-democratic nature of the State militates against the right to self-determination and the need for democracy in the country. Although the advent of technology and globalization has meant that some nationals of the

Democratic People's Republic of Korea have more access to foreign information, there is still no genuine free access to information, since media and related information are State-controlled and it is illegal to listen to foreign radio and television or to own computers without official permission. Political dissent is repressed, with a pervasive security network and detention camps for political prisoners. Interestingly, at the end of 2005, with various media speculation on the issue of succession in regard to the leadership of the country, it was reported that the authorities had issued an instruction forbidding discussion of the subject, with the threat of life imprisonment for those who failed to follow the instruction.[9]

30. While there are official claims that freedom of religion was allowed, the reality suggests otherwise, as seen in a recent report on the issue, based upon many interviews, which highlight a myriad of threats not only to religious freedom but also to the right to life and humane treatment. As observed by the report of the United States Commission on International Religious Freedom:

> Article 68 of the Democratic People's Republic of Korea Constitution states that "citizens have freedom of religious beliefs". However, despite the Government's assertion to the Human Rights Committee that there are no limitations on religious practice, Article 68 also has provisions on drawing in foreign forces and harming the state or social order, provisions that could lead to potentially severe limitations that could easily result in the arbitrary application of the constitutional provision on "freedom of religious beliefs".
>
> Article 67 of the Constitution provides for "freedom of speech, of the press, demonstration and association". However, as is the case with "freedom of religious beliefs", these freedoms are overshadowed and heavily, if not entirely, limited and circumscribed by other constitutional provisions, including that "the State shall adhere to the class line, strengthen the dictatorship of people's democracy"; "the State shall oppose the cultural infiltration of imperialism"; and "the State shall eliminate the way of life inherited from the outmoded society and establish a new socialist way of life in every sphere".
>
> Those interviewed for this study claimed that there are four mutually reinforcing reasons for lack of religious freedom in North Korea:
>
> – the intensive and continuous anti-religious propaganda by the Government;
>
> – the banning of religious activity, resulting in the fact that none of the interviewees was aware of any authorized religious activity inside North Korea;
>
> – the severe persecution of persons caught engaging in religious activity, which most interviewees had either heard about or personally witnessed; and
>
> – the fact that Juche, the official state ideology ... was the only officially permitted system of thought or belief in North Korea.
>
> Despite assertions of the Government of the Democratic People's Republic of Korea that the state and religion are separate, it is clear that the religious activities conducted under the auspices of Government-sponsored religious federations could more accurately be described as emanations of the North Korean party-state. The religious activity that is allowed takes place under the authority and control of the corresponding religious federation. The religious

federations are members of, and controlled by, the National United Front for the Unification of the Fatherland, which is in turn controlled by the Korean Workers Party, the ruling arm of the regime. Under the federation structure, there is no apparent mechanism, procedure, or structure for allowing belief systems and forms of worship that are not covered by an appropriate federation.[10]

31. The regime's emphasis is thus to inculcate people religiously from a young age in the belief in and total adherence to the past and current political leadership, coupled with massive ideological mobilization akin to cult worship.

B. Specific concerns

32. The rights pertaining to various groups have been affected greatly by the situation in the country and deserve more specific focus: first, women's rights, which cut across all the other issues dealt with below including child rights, the rights of older persons and the rights of those with disabilities.

33. In principle, women's rights and non-discrimination were part and parcel of the first Constitution propounded by the regime — thus in a manner, there has for a long time been formal equality between men and women. In reality, substantive equality and related implementation are the missing link. While women are a large base of the workforce, their access to high decision-making positions is limited and they are often relegated to stereotyped roles, as noted by these observations made in July 2005 by the Committee on the Elimination of Discrimination against Women:

> The Committee notes with concern the persistence of traditional and stereotyped assumptions and attitudes in respect of roles and responsibilities of women and men, which are discriminatory against women and have a pronounced impact, particularly in the areas of education and employment as well as in other areas of their lives. For example, the Committee is concerned at the stereotyping of women, which perceives them exclusively as caregivers and homemakers and assigns them to areas such as education and employment on the basis of spheres suitable to their "characteristics". The Committee is concerned that such expectations of women have serious consequences, preventing them from accessing rights and entitlements on an equal basis with men and creating a dependency on men, husbands and family for housing, food and other services. It is also concerned that, in times of economic crisis, as in the current situation of the country, women's prescribed roles and lesser entitlement intensifies their hardship and amounts to multiple discrimination. (CEDAW/C/PRK/CO/1, para. 35)

34. Second, the economic decline of the country has been particularly severe for women: they have to bear the brunt of not only the housework, child-rearing, and work outside the home but also the task of gathering food and other necessities in times of great deprivation. This has also had a huge impact on their health, which has not improved in recent years. The lack of improvement in their health/nutritional state was noted in the Special Rapporteur's report to the General Assembly in 2005 (A/60/306).

35. Third, as observed in the Special Rapporteur's earlier reports, more women have become victims of violence ranging from the home to the outside. There are

reports of human trafficking and sexual exploitation, which have severely affected women. In recent times, more women than men have been seeking refuge in neighbouring countries and many of them are smuggled in or trafficked into exploitation.

36. The Committee for the Elimination of Discrimination against Women's assessment and recommendations above should be responded to effectively by the authorities, as follows:

> In the light of the widespread famine and natural disasters that have affected the country from the mid-1990s, the Committee expresses concern about the insufficient explanation provided with respect to the impact of those phenomena on women, in particular women from rural areas, on women who are the main providers of the household and on young girls. The Committee is concerned that they may become vulnerable to trafficking and other forms of exploitation, such as prostitution.
>
> The Committee urges the State party to introduce specific poverty alleviation measures aimed at improving the situation of women to eliminate their vulnerability. The Committee recommends that the State party seek international assistance in guaranteeing that women, particularly women from rural areas, have equal access to food supplies. It urges the State party to assist women economic returnees who went abroad without valid travel permits to reintegrate into their families and society and to protect them from all forms of violations of their rights. It calls on the State party to train law enforcement officials, migration officials and border police on the causes, consequences and incidence of trafficking and other forms of exploitation so as to enable them to render support to women who might be at risk of becoming victims of trafficking and commercial sexual exploitation. It also recommends that the State party conduct nationwide awareness-raising campaigns on the risks and consequences of trafficking targeted at women and girls. The Committee further urges the State party to evaluate those phenomena and systematically compile information on them with a view to formulating a comprehensive strategy that includes measures of prevention, prosecution and punishment of offenders, as well as measures to rehabilitate and reintegrate victims. The Committee also urges the State party to intensify its efforts to deal with these phenomena through increased international, regional and bilateral cooperation. Information on the results of the research and progress made should be included in the next periodic report. (CEDAW/C/PRK/CO/1, paras. 41-42.)

37. Fourth, the application of women's rights in the country should not be generalized. Women close to the elite are in a good position. However, women who fall outside that group are often marginalized and discriminated against, given that the regime has divided people into three categories: those in the elite group, the wavering class in the middle and those seen as enemies of the regime. A particular concern is the plight of the third group, who are at times punished for being associated with relatives seen as hostile to the regime, on the basis of "guilt by association", and find themselves banished or sent to political detention camps with the rest of their family.

38. With regard to child rights, social services and access to education for children were commendable from a quantitative angle before the economic crisis of the mid-1990s, and there are laws which support assistance for children such as the Law

on Nursery and Upbringing of the Child which recognizes the State's responsibility towards the child. The authorities have emphasized the importance of 11 years' compulsory education and have been open to working with United Nations agencies dealing with child rights, including a visit by the Committee on the Rights of the Child.

39. The disastrous food shortage of the mid-1990s has taken a toll among many children in relation to malnutrition. As noted in the Special Rapporteur's report for the General Assembly in 2005, while the situation has improved in regard to chronic malnutrition, malnutrition rates and their impact, e.g. stunting, are still a major cause for concern. There are other chronic shortages, such as electricity at school and medicines in general.

40. Yet the situation of child rights should not be generalized. Children are also subject to the political stratification noted above in relation to women. Those with the elite do well, while the wavering class and those deemed enemies of the regime are marginalized. There is also a qualitative angle in regard to the social services offered to children — as these services are part of a mass mobilization campaign to make people subservient from a young age to the political leadership. Merely quantitative assessment of their coverage is inadequate and should be balanced with a more qualitative assessment. This affects particularly the content of the curriculum, which uses children as objects of indoctrination to justify the presence of the political system and its concomitant ideology rather than as subjects of human rights.

41. Particular attention should be paid to children who are deprived of a family environment, who are beyond the scope of social services, and/or who are seen as part of families classified as hostile to the regime. These include abandoned children, children born out of wedlock, children who have to face the juvenile justice system, children in prisons, children of dissident families, and children who are seeking asylum with their families or are themselves unaccompanied minors. Children are also the victims of the "guilt by association" practice by which the regime punishes or discriminates against whole families for being associated with a political dissident or a person deemed hostile to the regime — the discrimination is intergenerational. There is thus a challenge for international and national agencies dealing with children, particularly those with access to the localities, to act more proactively and accessibly to address not only the issue of child survival and child development but also the issue of child protection and child participation in these situations.

42. Interestingly, there is a lesson learned from the use of children in cultural activities. As noted by an observer:

> Despite the numerous social activities of the child, this social participation is not by spontaneity and creativity of social participation, but is compulsory. Even in the mass games performed by 100,000 at the Arirang festival, the testimonies of defectors show how wearisome the training for the group gymnastics is. The defectors said that, during the mass game practice, the trainees were prohibited from going to [the] restroom and taking a rest so that it was frequently [observed] that numerous students fell ill with diseases such as nephritis ... If the child is forcibly mobilized to collective events, or is forced to live in the predetermined structure, this is not the true meaning of the right to participation.[11]

43. With regard to the rights of older persons, the elderly were generally well cared for before 1995. Many lived in communities with the families as part of the traditional Asian practice of having several generations under one roof. The State offered social security through extensive pensions. However, the crisis of the mid-1990s has taken a toll among the elderly. They have been affected by the food shortage and by declining social security, social services and medical care. Increasingly, they have had to fend for themselves to survive. It is presumed that a large proportion of the deaths through starvation in the late 1990s were of these older persons. This has been mitigated to some extent by the food aid from outside the country. However, given the uncertain situation concerning access to aid in 2006, the plight of the elderly needs to be highlighted and responded to effectively.

44. With respect to the rights of those with disabilities, the new law adopted on this issue — the 2003 Law on the Protection of Persons with Disability — is welcome. In principle, it should help to counter discrimination and to offer services to help those with disabilities. Article 3 of the law states: "It is consistent policy of the Democratic People's Republic of Korea to protect the person with disability. The State shall systematically increase the investments in the field of the protection of the person with disability in order to modernize the material and technical means."

45. It remains to be seen how the law will be implemented. To date, the situation facing those with disabilities has presented a very disconcerting picture. It is reported that those with disabilities are sent away from the capital city, and particularly those with mental disabilities are detained in areas or camps known as "Ward 49" with harsh and subhuman conditions. As observed by the White Paper on Human Rights in North Korea:

> North Korean authorities are practising merciless discrimination against handicapped persons by setting up collective camps for them where they are designated according to their physical deformity or disability. Defectors from North Korea testify without exception that there exist collective camps for midgets in North Korea. According to (a testimony), ... midgets (are) not allowed to reproduce and they (are) rounded up and relocated. ... Marriages at these camps are permitted but having children is not.[12]

46. Like all the rights of the various groups noted above, there is the challenge of not only effective implementation of human rights in quantitative terms but also in qualitative terms.

47. Finally, given the fact that the country is a very homogeneous society, it is interesting to inquire about the issue of ethnicity, particularly the presence of minorities and how they are treated. Discussions which the Special Rapporteur had on this issue during a country visit to the Republic of Korea in the past year suggested that there is a small group of ethnic Chinese living in the Democratic People's Republic of Korea and many are involved in the commercial sector. There is one area where there may be a human rights concern, that of Korean women who have a sexual relationship with those of the ethnic Chinese group. On a related front, there have been reports that, when Korean women are returned forcibly from neighbouring countries, if they carry a child of those of non-Korean ethnicity, they may be subjected to discrimination and/or violence, with dire impact on the babies or children of the relationship.

III. Communications

48. During the reporting period, the Special Rapporteur sent five communications to the Government of the Democratic People's Republic of Korea. On 18 November 2005, he sent a communication in connection with two groups of Democratic People's Republic of Korea nationals who were deported back to their country by a neighbouring country against their will. The first consisted of five women and two men who were deported on 29 September 2005, after having sought asylum in a foreign school in a neighbouring country. The second case related to a group of four women and one man who also sought asylum in a foreign school in a neighbouring country, who were returned to the Democratic People's Republic of Korea against their will in October 2005.

49. The Special Rapporteur requested the Government of the Democratic People's Republic of Korea to provide him with information on the current whereabouts and status of the above-mentioned groups. He further expressed his concern about their safety. He urged the Government to abstain from punishing the returnees for having left without an exit visa and to ensure their safety.

50. On 1 December 2005, the Government of the Democratic People's Republic of Korea replied to the communication. In the reply, the Government reiterated its position that it did not recognize the mandate of the Special Rapporteur and therefore did not wish to meet or communicate with the Special Rapporteur regarding human rights issues.

51. The second communication was sent on 20 December 2005, jointly with the Special Rapporteur on freedom of religion or belief, the Special Rapporteur on the independence of judges and lawyers, the Special Rapporteur on the question of torture, and the Special Rapporteur on violence against women, its causes and consequences. In the communication, they raised a series of human rights concerns, including punishment of those who left without an exit visa, the harsh treatment of prisoners in political and re-education labor camps and the absence of judicial process. They appealed to the Government of the Democratic People's Republic of Korea not to torture, punish, summarily execute or otherwise punish its citizens for exercising their human right to leave their own country. They further appealed to the Government of the Democratic People's Republic of Korea to take all necessary measures to guarantee the rights of all women and girls in its territory to be free from any gender-based violence, discrimination and abuse, to ensure freedom of religion and belief and to ensure a proper judicial process.

52. On 4 January 2006, the Government of the Democratic People's Republic of Korea replied to the communication. In its reply, the Government rejected the content of the communication and reiterated its position that it did not recognize the mandate of the Special Rapporteur regarding human rights issues.

53. On 24 March 2006, a communication was sent to the Government of the Democratic People's Republic of Korea, jointly with the Special Rapporteur on trafficking of persons, especially women and children, the Special Rapporteur on violence against women, its causes and consequences, and the Special Rapporteur on the sale of children, child prostitution and child pornography in connection with the forced repatriation of a female national of the Democratic People's Republic of Korea by a neighbouring country on 28 February 2006 against her will. The woman and her one-year-old daughter were sold to a national of a neighbouring country,

whom she was forced to marry. The woman gave birth to a second daughter soon thereafter. Concern was expressed that the woman might face harsh punishment since she had already been deported on two previous occasions, but managed each time to return to her children in the neighbouring country. The special procedures appealed to the Government of the Democratic People's Republic of Korea to guarantee its citizens the human right to leave their own country. They furthermore urged the Government to treat all persons deprived of their liberty with humanity and with respect for the inherent dignity of the human person.

54. On 12 April 2006, the Government of the Democratic People's Republic of Korea replied to the communication. In the reply, the Government rejected the content of the communication and reiterated its position that it did not recognize the mandate of the Special Rapporteur.

55. On 26 April 2006, a communication was sent to the Government of the Democratic People's Republic of Korea, jointly with the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the Special Rapporteur on the question of torture. In the communication, they raised the case of a male national of the Democratic People's Republic of Korea who was held in critical health condition after he was reportedly tortured. They appealed to the Government to take all necessary measures to guarantee his right not to be deprived arbitrarily of his liberty and to fair proceedings before an independent and impartial tribunal, and furthermore urged the Government to suspend the capital punishment against him until all allegations relating to the absence of trial and the recourse to torture had been thoroughly investigated.

56. On 5 May 2006, the Government of the Democratic People's Republic of Korea replied to the communication rejecting the content of the communication. The Government reiterated its position that it did not recognize the mandate of the Special Rapporteur.

57. On 18 August 2006, the Special Rapporteur sent a communication to the Government of the Democratic People's Republic of Korea concerning the case of a male national of the Republic of Korea who was reportedly abducted by a patrol boat of the Government of the Democratic People's Republic of Korea with 11 other crewmen of a fishing boat in June 1987. He reportedly attempted to escape the Democratic People's Republic of Korea three times and was consequently detained, despite several requests to return to his country. The Special Rapporteur appealed to the Government not to detain, torture or otherwise punish a national of the Republic of Korea for exercising his right to return to his country.

58. Information regarding any reply from the Government of the Democratic People's Republic of Korea in response to this communication will be contained in the next report of the Special Rapporteur.

IV. Conclusions

59. **The situation of human rights concerning the Democratic People's Republic of Korea identified by the analysis above provides continuing cause for concern. There are still many transgressions and discrepancies of an egregious nature which require effective redress. While welcoming the fact that the country is a party to four human rights treaties and that it has engaged with the monitoring bodies under those treaties, as well as adopting some key reforms of the domestic law such as its criminal law, there is still a huge gap between formal recognition of human rights and substantive implementation of human rights in the country.**

60. **There are major concerns in regard to the rights to food and life, the rights to security of the person and humane treatment, the rights to freedom of movement, asylum and refugee protection, and various political rights such as self-determination, freedom of expression, association and religion. Specific concerns raised in this report include women's rights, particularly violence against women, child rights, particularly child protection and participation, the rights of older persons/the elderly, the rights of those with disabilities and the ethnic issue.**

61. **In future, the authorities of the Democratic People's Republic of Korea should take the following measures/actions:**

- **Abide effectively by human rights, particularly by implementing the four human rights treaties to which the State is a party, in addition to acceding to and implementing the totality of human rights instruments, and to accord adequate resources to ensure their implementation, especially to re-allocate military budgets for this purpose;**
- **Allow humanitarian agencies to stay in the country to ensure food distribution to the target groups with effective monitoring, and to promote sustainable agricultural development to ensure food security;**
- **Reform the national law so as not to require travel permits and not to punish those who leave the country without permission;**
- **Initiate reform of its prison system under the concept of the rule of law, with improvement of the criminal justice system, due safeguards for the accused, an independent judiciary and access to justice, and to abolish sanctions for political dissent;**
- **Liberalize its laws, policies and practices to ensure respect for the totality of civil, political, economic, social and cultural rights;**
- **Address the specific concerns of women, children, older persons, those with disabilities and ethnic groups by substantively promoting non-discrimination;**
- **Direct its law enforcers to respect human rights and ensure capacity-building through training and education in this regard;**
- **Seek assistance from the Office of the United Nations High Commissioner for Human Rights for programmes to enhance human rights' promotion and protection;**

– **Enable the Special Rapporteur and other mechanisms, as appropriate, to visit the country and assist in human rights' promotion and protection; and**

– **Invite the various human rights monitoring bodies under the four treaties to which the State is a party to visit the country consistently to help monitor the situation and follow up progress in regard to needed reforms, given that the country has been willing to engage with those bodies at a certain level.**

62. **In addition, the rest of the international community should take the following measures/actions:**

– **Support the various recommendations of the Special Rapporteur submitted above as well as in his earlier reports;**

– **Continue to provide food aid as necessary, while ensuring complementarity between the different types of aid, access to the target groups and relevant monitoring;**

– **Respect the principle of asylum, particularly non-refoulement, to protect refugees, and discard those arrangements or practices which undermine this principle, while promoting international solidarity to burden-share and address the root causes of the outflows;**

– **Assist the country to reform its prison system and to abide by the rule of law; and**

– **Respond in a balanced manner to the country's concerns for "security" by packaging human rights initiatives with security guarantees and incentives for economic and other development, reflective of a comprehensive approach to human rights with practical implementation measures.**

Notes

[1] Stephan Haggard and Marcus Noland, *Hunger and Human Rights: The Politics of Famine in North Korea*, United States Committee for Human Rights in North Korea, Washington, 2005, p. 16.

[2] For recent analyses, see: "White Paper on human rights in North Korea 2005", Korean Institute for National Unification, Seoul, 2005; "North Korean human rights: trends and issues", National Human Rights Commission of Korea, Seoul, 2005; "DPRK: situation bulletin", Office of Coordinator for Humanitarian Affairs Office in the Democratic People's Republic of Korea, August-September 2005; *Time* magazine, 31 October 2005, pp. 12-19; Christine Ahn, "Famine and the Future of Food Security in North Korea", FoodFirst: Institute for Food and Development Policy, Oakland, Calif., 2005; Kim Young-yoon and Choi Soo-Young, "Understanding North Korea's economic reforms", Centre for the North Korean Economy and Korea Institute for National Unification, Seoul, 2005; *North Korea Today*, 29th edition, Research Institute for North Korean Society, Seoul, July 2006.

[3] *Financial Times*, 12 May 2006, p. 6.

[4] Human Rights Watch, "A matter of survival: the North Korean government's control of food and the risk of hunger", Human Rights Watch, New York, Vol. 18., No. 3 (c)2005, p. 4.

[5] Kim Soo-An, "The North Korean penal code, criminal procedures and their actual applications", Korea Institute for National Unification, Seoul, 2006, pp. 20-23.

[6] "White Paper on Human Rights in North Korea 2005", op. cit., pp. 69-70.

[7] "Abductions of Japanese Citizens by North Korea", Ministry of Foreign Affairs of Japan, Tokyo, 2006, p. 4.

[8] International Crisis Group, "After North Korea's missile launch: are the nuclear talks dead?", Policy Briefing, Asia Briefing No. 52, Seoul/Brussels, 9 August 2006, p. 10.

[9] *Bangkok Post*, 12 December 2004, p. 6.

[10] "Thank You Father Kim Il Sung: eyewitness accounts of severe violations of freedom of thought, conscience, and religion in North Korea", United States Commission on International Religious Freedom, Washington, 2005, pp. 12-15.

[11] Soon Hyung Yi, "Human Rights of the Child in North Korea", International Seminar on the North Korean Human Rights 2005, National Human Rights Commission of Korea, Seoul, 2005, pp. 407-41; 421-3.

[12] "White Paper on Human Rights in North Korea 2005", op. cit., pp. 124-5.

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Financial reports and audited financial statements, and reports of the Board of Auditors

Financial reports and audited financial statements and reports of the Board of Auditors for the period ended 31 December 2005

Report of the Advisory Committee on Administrative and Budgetary Questions

I. Introduction

1. In accordance with regulation 7.12 of the Financial Regulations and Rules of the United Nations, the Advisory Committee on Administrative and Budgetary Questions received copies (in advance form) of the financial reports, audited financial statements and reports of the Board of Auditors to the General Assembly for 15 entities of the United Nations system for the biennium ended 31 December 2005 and for the capital master plan for the year ended 31 December 2005. A list of the audit reports appears in paragraph 2 below. The report of the Board of Auditors on the accounts of the United Nations peacekeeping operations for the financial period from 1 July 2005 to 30 June 2006 (A/61/5, Vol. II, chap. II) will be considered by the Advisory Committee at its session in February and March 2007. The audit of the United Nations Office for Project Services (UNOPS) has been postponed at the request of its Executive Board (see A/61/182, para. 12). The Committee also had before it advance copies of the concise summary of principal findings and conclusions contained in the reports prepared by the Board of Auditors for the General Assembly at its sixty-first session (A/61/182) and the report of the Secretary-General on the implementation of the recommendations of the Board of Auditors on the accounts of the United Nations, the United Nations funds and programmes and the International Tribunals for Rwanda and the Former Yugoslavia for the financial period ended 31 December 2005 (A/61/214 and Add.1).

2. The Board issued unqualified opinions for 12 of the 15 entities and unqualified opinions with emphasis of matter for the remaining 3 (United Nations Development Programme (UNDP), United Nations Environment Programme (UNEP) and United Nations Population Fund (UNFPA)). The reports include replies of the

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Administrations to the observations of the Board of Auditors, as well as additional information on measures taken to implement the recommendations of the Board. The Administrations have generally concurred with the recommendations of the Board and have proceeded, as and where appropriate, to implement them. In instances where the Administrations do not agree with the recommendations of the Board or are unable to begin implementation, they have provided an explanation. Upon request, the Advisory Committee was provided with the following table showing the type of opinion issued by the Board on the financial statements of each entity, as well as the number of recommendations accepted or disputed by each entity:

	Organization audited	*Type of opinion issued on the financial statements*	*Recommendations*		
			Accepted	*Disputed*	*Total*
1.	United Nations (A/61/5 (Vol. I))	Unqualified	177	3	180
2.	International Trade Centre (A/61/5 (Vol. III))	Unqualified	13		13
3.	United Nations University (A/61/5 (Vol. IV))	Unqualified	15		15
4.	United Nations Development Programme (A/61/5/Add.1)	Unqualified, with emphasis of matter	115		115
5.	United Nations Children's Fund (A/61/5/Add.2)	Unqualified	96		96
6.	United Nations Relief and Works Agency for Palestine Refugees in the Near East (A/61/5/Add.3)	Unqualified	34		34
7.	United Nations Institute for Training and Research (A/61/5/ Add.4)	Unqualified	22	1	23
8.	Office of the United Nations High Commissioner for Refugees (A/61/5/Add.5)	Unqualified	65		65
9.	United Nations Environment Programme (A/61/5/Add.6)	Unqualified, with emphasis of matter	26		26
10.	United Nations Population Fund (A/61/5/Add.7)	Unqualified, with emphasis of matter	42		42
11.	United Nations Human Settlements Programme (A/61/5/Add.8)	Unqualified	18	1	19
12.	United Nations International Drug Control Programme (A/61/5/Add.9)	Unqualified	31	4	35
13.	International Criminal Tribunal for Rwanda (A/61/5/Add.11)	Unqualified	33		33
14.	International Tribunal for the Former Yugoslavia (A/61/5/Add.12)	Unqualified	11	1	12
15.	United Nations Joint Staff Pension Fund (A/61/9)[a]	Unqualified[b]			21
16.	Capital master plan (A/61/5 (Vol. V))	Not available[b,c]			4

[a] The audit report on the accounts of the Joint Staff Pension Fund will be included in the report of the United Nations Joint Staff Pension Board.

[b] Reports on the implementation of the recommendations of the Board of Auditors are not yet available.

[c] The financial statements were consolidated with the report on the United Nations (A/61/5 (Vol. I)).

3. The observations and comments of the Advisory Committee on the report of the Board of Auditors on the United Nations Joint Staff Pension Fund for the biennium ended 31 December 2003 will be submitted separately to the General Assembly at its sixty-first session in a report that will include the Committee's recommendations on the report of the Board on the United Nations Joint Staff Pension Board (A/61/9). Similarly, the Committee will comment on the audit reports on the International Criminal Tribunal for Rwanda (A/61/5/Add.11, chap. II), the International Tribunal for the Former Yugoslavia (A/61/5/Add.12, chap. II) and the capital master plan (A/61/5, Vol. V, chap. II), in the context of its consideration of the biennial budgets of the Tribunals and the report of the Secretary-General on the capital master plan.

4. Many of the issues covered by the Board with respect to the United Nations may have relevance to other reports that the Advisory Committee expects to take up during its current session. These include reports on the reform of the Organization, cost accounting, human resources management, after-service health insurance and the United Nations system response to the Indian Ocean tsunami. The Committee will comment further and draw upon the Board's observations on such matters in the context of its consideration of those reports.

5. The Advisory Committee also expects to revisit as necessary the observations and recommendations of the Board of Auditors and the other issues discussed in its reports on the financial statements of funds and programmes during the Committee's review of the biennial budgets of those entities for the next fiscal period.

6. During its consideration of the reports, the Advisory Committee met with the members of the Audit Operations Committee, who provided additional information and clarification.

II. General observations and recommendations

7. **The Advisory Committee welcomes the continued efforts made by the Board to improve the structural presentation of its reports and recognizes the intensive work that has gone into producing them.** The Committee was informed that the Board had spent more than 2,466 person-weeks on audits during the audit cycle for 2004-2005. This included the peacekeeping audits but excluded senior management time, general coordination, assistance and training. During the audit period, the Board issued 186 management letters to organizations on matters of programme and financial management; these are not included in the Board's reports to the General Assembly.

8. The Board has, once again, included observations and recommendations on a number of cross-cutting issues, such as non-expendable property; liabilities for annual leave, end-of-service and post-retirement benefits; programme expenditure; treasury and cash management; funding strategies; inter-agency coordination; emergency response; procurement and contract management; human resources management; information technology; and fraud and presumptive fraud. **The Advisory Committee welcomes the thematic approach and believes that, if further refined, it could help the Board to streamline its reporting; the Committee has long been of the view that it is essential for the Board to find a way to condense and prioritize the information in its reports in order to maximize their usefulness.**

9. **As a starting point, the Advisory Committee recommends that, for each "theme", the Board describe why it took the approach it did and what sort of risk assessment it made that led it to focus on certain aspects of an issue. Such a description would have the advantage of providing an overall picture of the problem being addressed and might eliminate the need for some supporting examples and details, which could instead be conveyed to the Administrations in management letters. In this connection, the Committee reiterates its encouragement to the Board to examine the scope and number of issues that should be addressed to the Administrations in management letters, with a view to further streamlining the audit reports to the General Assembly** (A/59/400, para. 7). Furthermore, this approach could give greater coherence to sections of the Board's reports, such as that on programme management and results-based budgeting (see A/61/5 (Vol. I), chap. II, sect. C.10), which appear to cover a broad range of loosely related topics.

10. The Board has included an annex that shows the status of implementation of the Board's recommendations as at 31 December 2005. Upon request, the Advisory Committee was provided with the following table showing the total number of recommendations and the status of implementation by biennium since 2000-2001:

Status of implementation of recommendations

(For the period ended 31 December 2005)

Period covered	*Number of recommendations*	*Fully implemented*	*Partially implemented*	*Not implemented*
2000-2001	360	301	50	9
2002-2003	476	282	170	24
2004-2005	692			

11. **The Advisory Committee is of the view that the Board could cast its recommendations in clearer and stronger language with more specific benchmarks and time frames for implementation.** Many of the Board's recommendations are formulated in such a general way that they achieve little beyond highlighting what the Administrations already know they should strive for. Examples of this include the recommendation that the Administration "remind all departments, divisions and offices to submit procurement plans, and monitor their submissions" and the recommendation that the Administration "continue to take appropriate measures to achieve the goal of gender parity in the Secretariat" (A/61/5 (Vol. I), chap. II, paras. 16 (x) and 16 (cc)). The Committee also points out that the Board does not indicate which recommendations are of an urgent nature, requiring immediate action by Administrations, and which could be implemented over a period of time. **While the Committee understands that it is the Board's position that the implementation and prioritization of its recommendations are the purview of the Administrations involved (see A/60/784, para. 7), it is of the view that the Board could give some indication as to the degree of the problem identified, as well as whether there has been any improvement in cases where it has reiterated a previous recommendation.**

12. **The Advisory Committee reiterates the importance of full and timely implementation of the recommendations of the Board and of other oversight**

bodies. In this connection, the Committee recalls paragraph 12 of General Assembly resolution 60/254, in which the Assembly stressed the importance of ensuring the full implementation of the recommendations of oversight bodies and requested the Secretary-General to ensure that managers are held accountable for the delay or non-implementation of oversight recommendations. It appears to the Committee from its discussions with the Audit Operations Committee that a major part of the problem in implementation relates to the seeming inability of Administrations to pinpoint the officials responsible for carrying out the Board's recommendations. **In this connection, the Committee reiterates its view that there is a need for further efforts to develop a strong culture of accountability within the United Nations and its funds and programmes, as well as to ensure that implementation of the Board's recommendations becomes an integral part of the work plans, activities and processes of the organizational units concerned (see A/59/400, para. 11). A clear definition of accountability, including identification of officials responsible for the implementation of the recommendations of the Board, is also necessary. The Committee trusts that the internal Oversight Committee, which is to advise the Secretary-General on the response of management to the recommendations made by oversight bodies (see ST/SGB/2005/18), will have a positive impact in this regard, once it is fully operational.** The Committee notes that the Oversight Committee has not yet been constituted.

13. **The Advisory Committee encourages the Board of Auditors to continue its coordination and collaboration with other oversight bodies, including the Office of Internal Oversight Services, internal audit services of the United Nations funds and programmes and the Joint Inspection Unit, in order to avoid duplication of effort and ensure optimal use of audit resources. In this regard, the governing boards of the funds and programmes may wish to look at the Advisory Committee's report in conjunction with the reports of the Board and the recommendations of the General Assembly.**

III. United Nations

14. The main recommendations of the Board on the accounts of the United Nations for the financial period ended 31 December 2005 are indicated in paragraph 16 of its report (A/61/5 (Vol. I), chap. II). In the paragraphs below, the Advisory Committee highlights a number of key issues concerning the United Nations. Many of the observations and recommendations of the Committee in this section also apply to the other organizational entities covered by the Board's audits. Observations and recommendations relating solely to the other organizational entities are set out in section IV below.

Liabilities for annual leave, end-of-service benefits and post-retirement benefits

15. For the United Nations, the estimated liabilities for after-service health insurance, accrued annual leave and termination benefits amounted to $2.3 billion as at 31 December 2005 (see annex I below). In its previous report, the Board recommended that the Administration review the funding mechanism for end-of-service and post-retirement benefits. In response, the Administration proposed funding mechanisms for its estimated liabilities for after-service health insurance but did not explore funding mechanisms for its accrued annual leave and other

termination benefits, which were estimated to be between $218 and $228 million (see A/61/5 (Vol. I), chap. II, para. 132).

16. By its resolution 60/255, the General Assembly requested the Secretary-General to take the necessary steps to disclose liabilities for end-of-service accrued benefit liabilities in the financial statements. The Assembly also requested the Secretary-General to submit to it at its sixty-first session a report that addresses the issue of the after-service health insurance programme, as well as the issues raised by the Advisory Committee in its report on the subject (A/60/7/Add.11), and that provides updated information on the status of liabilities, clarifications with regard to the assumptions used to determine liabilities and alternative strategies to fund those liabilities. A decision by the Assembly on this matter is pending. The Advisory Committee will revert to the issue in the context of its consideration of the above-mentioned report of the Secretary-General.

17. The Advisory Committee was informed that progress continues to be made in some of the funds and programmes, with some governing boards making provisions to build up the resources for the funding of end-of-service benefits, while others are awaiting a decision by the General Assembly (see paras. 42 and 43 and annex I below).

18. The Advisory Committee notes that the International Public Sector Accounting Standards, which are intended to be instituted system-wide by 2010, will require the disclosure of such liabilities in the financial statements. **High priority should therefore be accorded to this issue. The Committee trusts that the Secretary-General will submit his report on the issue as early as possible in the main part of the sixty-first session.**

Information and communication technology

19. The Advisory Committee notes the progress cited by the Administration as regards system-wide coordination in the area of information and communication technology (ICT). As noted in paragraph 225 of the report of the Board, the United Nations System Chief Executives Board for Coordination (CEB) has made progress in establishing the United Nations system ICT framework, its elaboration into specific initiatives and projects, including a knowledge-sharing and knowledge management strategy, and initiating the preparation of business-case analyses for eight priority initiatives to be implemented by the organizations of the United Nations system. **The Committee welcomes these developments and emphasizes the importance of close cooperation and coordination across the system, in particular through CEB.**

20. The Advisory Committee discussed with members of the Audit Operations Committee the technical difficulties encountered by the funds and programmes in the implementation of new enterprise resource programme (ERP) systems. **The Committee urges the Administration to take lessons from the relevant experiences of the funds and programmes and review existing procedures, regulations and rules so as to ensure that they are updated to be, to the maximum extent possible, accommodative of the new ERP. This would help minimize the need for customization.** The Committee discusses the experiences of the funds and programmes in some detail in paragraphs 74-80 below.

Programme management and results-based budgeting

21. The section on programme management and results-based budgeting of the Board's report deals with widely divergent issues, such as conference-servicing at Headquarters and in Geneva, utilization of the conference centre of the Economic Commission for Africa (ECA), disproportionate actual outputs against resource utilization, programmatic coordination in ECA, cooperation between the Economic Commission for Europe (ECE) and other international organizations, agreement between ECE and the International Road Transport Union, the Development Account, self-evaluation of subprogrammes, workplans and staff travel costs. **In the opinion of the Advisory Committee, this section of the Board's report represents a clear case where an explanation of the considerations underlying the Board's choice of focus would have been useful (see para. 9 above). Furthermore, a number of these issues are dealt with rather extensively in other reports. The Committee recommends that the Board reconsider the structure of this section with a view to making it more focused and reader-friendly.**

Treasury and investment management

22. **The Advisory Committee concurs with the Board's findings concerning Treasury and investment management and encourages the Administration to implement the recommendations of the Board in a timely manner.** Among other things, the Board notes that the processing of tracking and validation of cash could be readily set up in the Operations Processing Integrated Control System. The Board also notes that the approximation of the expenses relating to the Treasury cash management application could be further improved by applying a more comprehensive and accurate method using historical expenditure rather than budget estimates.

23. The Advisory Committee notes that the timely reconciliation of all accounts is a prerequisite for migration to the International Public Sector Accounting Standards, which is to be effected system-wide by 2010. **Accordingly, training for accounting and administration staff, as well as managers and users of the financial statements, will need to be undertaken well in advance. In this regard, the Secretariat should take lessons from the funds and programmes and the specialized agencies, some of which will be migrating to the International Public Sector Accounting Standards in advance of the United Nations.**

Procurement and contract management

24. As noted in paragraph 506 of the report, in view of the recent review of the United Nations Procurement Service by an external consulting firm, the Board has focused its audit of procurement and contract management primarily on determining the status of implementation of previous recommendations.

25. The Board highlights numerous examples of failure to comply with financial rules and regulations, the Procurement Manual and General Assembly resolutions on procurement. The United Nations Interregional Crime and Justice Research Institute, though it has procured various items and services, has never been issued a formal delegation of procurement authority, contrary to United Nations financial rule 105.13 and paragraph 3.2 of the Procurement Manual. The delegations of procurement authority at the United Office at Geneva were not fully in line with

United Nations rules. Annual procurement plans were not submitted by a number of departments, divisions and offices, in contravention of paragraph 7 of General Assembly resolution 52/226 A and paragraph 8.1.1 of the Procurement Manual. The requirement for financial statements from vendors in section 7.5 of the Procurement Manual was not adhered to in the cases of five out of the eight vendors selected by the Board as samples at the Economic and Social Commission for Western Asia. At several offices away from Headquarters, contracts and/or purchase orders were awarded to vendors that were not registered in the vendor roster.

26. The Advisory Committee recalls that the Board has, in the past, noted numerous instances of unexplained non-compliance with manuals, guidelines and regulations (see A/60/784, para. 9). **The Committee considers such deviations or failures to adhere to regulations and rules very serious, as they open up the possibility of fraud and/or abuse. The responsible officials should be identified by the Administration and held accountable.**

27. The Board refers to a number of issues relating to procurement personnel. It notes, for example, that the average seniority of the 17 staff involved in procurement at the United Nations Office at Geneva exceeded six years (see A/61/5 (Vol. I), chap. II, para. 513). **The Advisory Committee concurs with the Board that periodic rotation of staff responsible for procurement services represents good internal control and is in keeping with best practices. Furthermore, in the view of the Committee, Administrations should consider the possibility of mobility in procurement functions not only within the United Nations but also between the United Nations and its funds and programmes.** The Committee expects to take up matters relating to mobility in the context of its consideration of human resources management issues.

Human resources management

28. By section V, paragraph 4, of its resolution 59/266, the General Assembly requested the Board to conduct an audit of the implementation of the principle of equitable geographical representation in the Secretariat at all levels, as set out in the relevant resolutions of the General Assembly, and to verify the application of established measures of transparency and accountability at all levels of the selection, recruitment and placement process in compliance with relevant resolutions of the Assembly. In section C.15 of its report (A/61/5, (Vol. I), chap. II), the Board provides some statistical information on equitable geographical representation, with a particular emphasis on the national competitive recruitment examinations. **This treatment does not appear to the Advisory Committee to cover much territory beyond that covered in the annual report of the Secretary-General on this matter. In fact, the Board's recommendations in this area are extremely general. Moreover, the report of the Board does not respond to the rest of the request by the Assembly, as outlined above; in the opinion of the Committee, the Board is yet to submit the audit requested.**

29. The section also deals with other issues, such as gender balance in the Secretariat, the detailed staffing table under the personnel module of Integrated Management Information System (IMIS), filling of vacancies, staff grading and staff training. The Advisory Committee will take up these issues in the context of its consideration of the Secretary-General's report on human resources management reform.

30. The Advisory Committee requested a clarification concerning the statement in paragraph 603 of the Board's report that, of 156 recruits from the roster of successful national competitive examination candidates, 47, or 30 per cent, were from over-represented Member States. The report does not contain an analysis of the reasons behind this, and the Audit Operations Committee was unable to fully explain it. Indeed, the Committee notes from the report of the Secretary-General on implementation of the recommendations of the Board that the Administration disputes some of the figures quoted by the Board in that section (see A/61/214, para. 119). **The Committee therefore requests that a full explanation be provided to the General Assembly when it takes up the report, including provision by the Secretariat of complete statistics for the last three years.**

31. The Advisory Committee notes that for ECE and the United Nations Conference on Trade and Development (UNCTAD), the Board refers to the percentage of staff from a particular region, implying over-representation (see A/61/5 (Vol. I), chap. II, paras. 615 and 620). **The Committee recalls that the system of equitable geographical representation as conceived by the Assembly is on the basis of countries and not of regions or continents (see General Assembly resolution 59/266, sect. IV, para. 7).**

Consultants and individual contractors

32. Section C.16 of the Board's report gives an outline of problems uncovered by the Board in its review of adherence to administrative instructions on hiring, remunerating and evaluating the performance of consultants and individual contractors. Examples of these included the lack of a roster of consultants, the selection of consultants not on the roster in some cases, the lack of supporting justifications or documentation for the selection of candidates for consultants, the fact that consultants and contractors were allowed to commence work prior to the approval of their contracts or without submission of health certificates, and the lack of performance evaluation. **The Advisory Committee concurs with the Board's recommendation that the Administration make more of an effort to ensure strict adherence to the administrative instructions on hiring, remunerating and evaluating the performance of consultants and individual contractors.**

Response of the Office for the Coordination of Humanitarian Affairs to the Indian Ocean tsunami

33. The Advisory Committee welcomes the Board's report on its audit of the response of the Office for the Coordination of Humanitarian Affairs to the tsunami in December 2004 in South-East Asia (see A/61/5 (Vol. I), chap. II, sect. C.17). **The Committee appreciates the clear language and coherence of the report, as well as its judicious mix of details and general principles to be acted upon. The Committee concurs with the Board's recommendations and believes that its findings will be of value to the Office for the Coordination of Humanitarian Affairs and to other organizations of the United Nations system in future planning for large-scale disaster relief (see also paras. 60-63 below).**

34. The Board finds that difficulties in the identification and recruitment of a sufficient number of qualified staff were among the most serious obstacles to the effectiveness of the Office for the Coordination of Humanitarian Affairs in the tsunami response operation. It also notes that when the tsunami struck, the Office

did not have a ready roster of staff members willing to be redeployed to take part in emergency relief operations. Furthermore, 17 per cent of the posts on the Office's Geneva staffing table were vacant at that time, hindering its ability to respond quickly and effectively to the administrative and financial challenges of the operation. The Board also uncovered numerous problems relating to financial and budgetary controls. It points, for example, to the difficulties created by the need to reconcile two incompatible information systems, IMIS and the Atlas system of UNDP, and notes that between the drafting of the cost plans and the financial statements a total of six manual operations must be performed, each of which presents a risk of error in the recording of allotments or expenditures.

35. Another exacerbating circumstance was that when the tsunami struck, the Office for the Coordination of Humanitarian Affairs was about to reorganize its management structures to combine desk functions for both complex emergencies and natural disasters under one division in New York. At the time, natural disasters were dealt with from Geneva and the political aspects of complex emergencies from New York. However, this division of responsibilities was not strictly followed, as the New York Office took a leading role in the operation. The nomination of the Deputy Emergency Relief Coordinator as Special Coordinator for the Secretary-General for the Tsunami Response, followed by the designation of the Secretary-General's Special Envoy for Tsunami Recovery, added to the complexity of reporting lines from the point of view of the field. As noted by the Board, the deployment of staff to the field by the Office for the Coordination of Humanitarian Affairs in New York without prior consultation with the Office for the Coordination of Humanitarian Affairs in Geneva or the field was an illustration of the risks involved in the dual accountabilities. The Advisory Committee notes that the Administration is addressing this problem through the reorganization of New York and Geneva desk functions and the development of clearer standard operating procedures and guidelines. It has also requested an Office of Internal Oversight Services evaluation of the planned merger.

36. Upon enquiry, the Advisory Committee was informed that a comprehensive report on the United Nations system-wide response to the tsunami would be finalized in December 2006. The Committee will revert to the matter, as necessary, upon receipt of the expected report.

Fraud and presumptive fraud

37. As noted in paragraph 851 of the Board's report, the Administration reported a total of seven cases of fraud and presumptive fraud for the United Nations for the biennium ended 31 December 2005. Upon request, the Advisory Committee was provided with a table showing reported cases of fraud and presumptive fraud for the biennium by organization (see annex II below).

IV. Funds and programmes

Non-expendable property

38. The Board modified its opinion on the financial statements of UNEP, drawing attention to the valuation of non-expendable property items on the inventory report at fair market value instead of at acquisition cost. The discrepancy between the value of non-expendable property as disclosed in the notes to the financial statements and the aggregate of the inventory report amounted to some $10 million. The Board reported other examples of deviations from existing rules and regulations at UNEP, such as the non-submission of physical inventory reports by out-posted projects and regional offices, the absence of valuation of certain inventory items and the non-issuance of personal property receipts for portable items. The Board also noted that the recording and maintenance of property records and reporting of the value of non-expendable property continue to present deficiencies at the United Nations Human Settlements Programme (UN-Habitat), UNEP, the United Nations Children's Fund (UNICEF), the Office of the United Nations High Commissioner for Refugees (UNHCR) and the United Nations International Drug Control Programme (UNDCP). It was not possible to locate 2,549 assets with a total acquisition value of $1.4 million and depreciated value of $127,523 during a physical verification at UNHCR.

39. The Advisory Committee notes that the aggregated value of non-expendable property of the United Nations and its funds and programmes stood at approximately $1.1 billion as at 31 December 2005 (A/61/182, para. 17), the overall total remaining unchanged from the amount reported by the Board of Auditors for the biennium 2002-2003 (A/59/162, para. 25).

40. In its previous report (A/59/400, paras. 31-32) the Advisory Committee pointed out that weaknesses in the control of non-expendable equipment, including inventory management, appeared to be a problem of a semi-permanent nature in most organizations of the United Nations system, and that the lack or inadequacy of proper information systems tended to aggravate the situation further. The Board of Auditors has followed up and reported on this matter over numerous bienniums, in detail, and accumulated considerable experience and knowledge of the management of non-expendable property across the system. **In the opinion of the Committee, the Board should now be in a position to draw clear conclusions from the observed facts and findings, and judge whether any recommendations implemented have been effective and led to real improvements or whether, on the contrary, the situation has remained unchanged or even deteriorated. Similarly, the Board could indicate whether delays and partial implementation or non-implementation of previous recommendations are justified, or appear to be due to a lack of effort or management commitment. A more forceful and explicit reflection of the Board's assessment of the situation in its recommendations and reports could lead to greater transparency and accountability** (see also para. 11 above).

41. **In this connection, the Advisory Committee cautions that with the adoption of International Public Sector Accounting Standards and full accrual accounting, non-expendable property and inventory will appear as assets on financial statements and have to be capitalized and accounted for. The integration of non-expendable property into the accounting system will require**

a systematic, comprehensive and accurate recording of such equipment into information systems, both at Headquarters and in field offices. This requirement could represent a considerable challenge, given the existing gaps in data entry and discrepancies between inventory reports and physical counts, as well as other weaknesses highlighted in the reports of the Board of Auditors, both at the United Nations and in the funds and programmes (A/61/182, paras. 17-18). The Committee recommends that each organization establish workable procedures with strong internal controls in this regard. Furthermore, rational valuation methods for recording and depreciating assets and for determining the cost basis for inventory items should be developed and harmonized between all organizations of the United Nations system. Pending the implementation of the International Public Sector Accounting Standards and accompanying new procedures and information systems, the Committee reiterates that it is necessary for Administrations to strictly adhere to the rules, regulations and procedures that have been promulgated and issued (A/59/400, para. 32).

Liabilities for annual leave, end-of-service and post-retirement benefits

42. Upon request, the Advisory Committee was provided updated information on liabilities for annual leave, end-of-service and post-retirement benefits as at 31 December 2005 (see annex I below and paras. 15-18 above).

43. The Advisory Committee notes from the table provided by the Board of Auditors that UNDP and UNICEF have already taken steps to make some provision for the funding of these liabilities. However, in view of the level of resources in question and their foreseeable growth, as well as the long-term implications of the funding strategies adopted and their potential impact on the financial situation of the organizations, the Committee previously recommended that the issue of the United Nations liability related to after-service health insurance benefits be addressed on a system-wide basis (see A/52/7/Rev.1); that recommendation was endorsed by the General Assembly in its resolution 52/220 (see para. 16 above). **In the view of the Committee, timely guidance from the General Assembly on this issue is essential.**

Programme expenditure

44. The Board modified its opinion on the financial statements of UNDP and UNFPA to emphasize its concerns regarding audit reports issued by independent auditors for nationally executed projects, which reflected significant numbers of qualifications. The extent and impact of project audit qualifications could not be properly assessed, since, as of June 2006, these had yet to be analysed. The Board was therefore not able to obtain full assurance that the funds provided for nationally executed expenditure had been properly utilized.

45. In the case of UNDP, for 2004, the quantitative impact of projects issued with qualified audit opinions was $33.5 million, or 2.5 per cent of the non-governmental organization/nationally executed expenditure project expenditure that was audited, composed of disclaimer of opinions ($10.5 million), adverse opinions ($10 million) and qualified opinions ($13 million). For the biennium 2004-2005, nationally executed projects subject to audit amounted to $3.2 billion, of which projects representing expenditure of $57.3 million were not planned for audit ($24.7 million

in the previous biennium). The Board pointed out that UNDP continues to select nationally executed expenditure projects for audit on the basis of an expenditure threshold of $100,000, whereas the UNDP programming manual stipulates that all nationally executed expenditure projects should be audited periodically. The Board reiterates its previous recommendation that UNDP intensify its efforts to complete a comprehensive database to facilitate the implementation of a risk-based assessment model for conducting project audits, in line with the UNDP programming manual. The Board made further recommendations (A/61/5/Add.1, paras. 158 and 161) to address weaknesses observed in the internal controls and procedures in respect of nationally executed expenditure projects. These included, for example, delays and omissions in the submission of project audit reports, which slowed down the review and action plan process, and lack of action in respect of those country offices responsible for nationally executed expenditure projects for which only qualified audit opinions were issued.

46. At UNFPA, programme expenditure of $195.6 million was executed by Governments and non-governmental organization partners during the biennium 2004-2005. The Board noted that annual project audit reports prepared by locally appointed project auditors, which were not always submitted or reviewed in a timely manner, reflected significant numbers of qualifications relating to such matters as insufficient documentation justifying expenses incurred, the non-recording of expenses incurred on financial statements, cash losses due to misappropriation of funds, inaccurate financial forms and missing bank confirmations. Furthermore, a quantified estimation of the financial effect of audit qualifications was not established. The Board indicated that in response to earlier recommendations, UNFPA had implemented an audit report database designed to assess project risk in country offices, but that the risk database was not yet functioning effectively and contained incomplete and in some cases inaccurate data.

47. **The Advisory Committee notes that UNDP and UNFPA have accepted the Board's recommendations regarding nationally executed expenditure (A/61/214/Add.1, paras. 24-25 an 380). It is concerned by the persistent gaps and weaknesses in the management of nationally executed expenditure and stresses the need for timely and full implementation of recommendations of the Board and other oversight bodies.**

48. With respect to outstanding advances, the Advisory Committee notes that UNDP national execution advances rose to $86.5 million as at 31 December 2005, 11 per cent more than at the end of the previous biennium, which is a lower rate than the overall increase of 21 per cent for nationally executed expenditure, and that UNDP has taken steps to identify and clear long-outstanding advances. In the case of the United Nations Office on Drugs and Crime (UNODC), the Board indicates that advances in the amount of $1.85 million were outstanding for 38 completed projects at the end of the biennium, and that all 12 of the projects reviewed by the Board, representing a total expenditure of $1.68 million, had been completed before the end of 1996. **The Advisory Committee agrees with the Board's recommendations that UNDP pursue its efforts to follow up on long-outstanding advances by finalizing the implementation of the reporting tool of the Atlas system and ensure regular monitoring of outstanding advances and that UNODC improve in terms of the financial closure of completed projects.**

49. The Board of Auditors, in its report (A/61/5/Add.5, chap. II, paras. 111-119), points to weaknesses in the monitoring of audit certificates submitted to UNHCR by its implementing partners, as well as inadequacies in the rules for partner audit certification in providing assurance about proper use of funds. **The Advisory Committee recommends the implementation of the Board's recommendations that UNHCR review the mechanisms for the audit of expenditure incurred by its implementing partners, assessing the efficiency of the procedures introduced in 2004 and enhancing monitoring in this regard, and that it review the timetable for submission of audit certificates.**

Reconciliation of accounts

50. In the case of UNDP, the Board modified its opinion with respect to the financial statements, pointing out that since monthly reconciliations, a key control, had not been prepared for headquarters and country offices during the biennium 2004-2005, fraud and errors could have remained undetected. The problem was compounded by the large number (615) of bank accounts held by UNDP, including 56 managed at headquarters and 536 at country offices, 6 payroll bank accounts managed by the United Nations Secretariat and 17 bank accounts managed on behalf of other United Nations agencies. A final reconciliation of all bank accounts for the financial statements for the biennium was carried out manually in December 2005. The Board noted that, owing to these weak controls and the lack of monthly reconciliations, differences between UNDP accounting records and those of other agencies persist in regard to the amounts owed to UNDP. These are summarized and explained in the report of the Board (A/61/5/Add.1, table II.2). Furthermore, the Board was unable to reconcile a difference of $5.6 million between UNDP and United Nations balances on the current account (see A/61/5/Add.1, chap. II, paras. 44-47).

51. The Advisory Committee recalls that it noted in its previous report the discrepancies in the accounting records and inter-agency balances of UNDP and UNFPA and various other agencies and that it was informed that UNDP expected to remedy the situation of inter-agency balances with the implementation of Atlas, its enterprise resource planning system (A/59/400, paras. 36-37). The Committee notes that Atlas was implemented in January 2004 and that the general ledger and bank reconciliation modules were not implemented in 2004. UNDP has accepted the Board's recommendations on bank and cash and inter-agency issues (A/61/5/Add.1, para. 11 (a)-(c)) and committed to their implementation as a matter of priority (A/61/214/Add.1, paras. 26-28). **The Committee shares the Board's concerns on the lack of basic financial controls and the delays accumulated in implementing the necessary Atlas modules. It urges the United Nations, UNDP, UNFPA and other partners to remedy the situation as a matter of the highest priority, in close coordination, adopting compatible, effective and harmonized working procedures wherever necessary.**

52. The Advisory Committee enquired as to the causes of the difficulties experienced by practically all organizations in administrating inter-agency fund transfers and in setting up streamlined, automated processes. It was informed by the Audit Operations Committee that it was necessary to ensure coherence and harmonization at many levels — for example, the adoption of common rules and business processes for end-of-period procedures and the development of compatible interfaces between the different ERP systems such as SAP or PeopleSoft. It was

further informed that the adoption of the International Public Sector Accounting Standards would constitute progress towards the harmonization of end-of-period times and procedures and that the implementation of an effective, seamless mechanism for inter-bank reconciliations would constitute the first step towards the integration of inter-office operations.

Funding strategies

53. The funds and programmes and specialized agencies rely mostly on voluntary funding, including for their core budgets and activities. It is therefore essential that all organizations develop comprehensive funding strategies and principles to guide their fund-raising policies in order to support the objectives set by their governing bodies. The funding mix targeted, including earmarked, unearmarked and private contributions, should be aligned with the nature of the work and goals of the different organizations. The Board highlights the importance of proactively seeking private-sector alternatives to voluntary contributions from Member States and of allocating dedicated resources to fund-raising activities. **The Advisory Committee shares the Board's views that the organizations of the United Nations system should develop effective funding strategies and diversify funding sources as appropriate.**

54. **The Advisory Committee shares the Board's concern regarding the sustainability of UNHCR expenditures, as for the past six years expenditures have been higher than income, leading to stagnating reserve and fund balances at the end of the year (A/61/5/Add.5, chap. II, paras. 31-42).**

55. The Advisory Committee notes that the funding gap between total available funds and the UNHCR budget approved by the Executive Committee for 2005 amounted to $102.2 million, compared with $28.9 million in 2004, forcing UNHCR to impose a number of caps on programme budgets and non-staff administrative costs during the year (i.e., reduction in spending authority). Factors contributing to the situation included the fact that the contributions received did not keep up with the increase in the annual programme budget and the fact that a good portion of the contributions received went towards the supplementary programmes, as well as the organization's vulnerability in terms of foreign-currency fluctuations, which led to high exchange rate losses: $36 million in foreign exchange losses in 2005, compared with gains of $6.9 million in 2004 (A/AC.96/1026, para. 25). UNHCR ended 2005 having to borrow $12.2 million from the Working Capital and Guarantee Fund. Furthermore, since the approval of the annual programme budget for 2006 by the Executive Committee in October 2005, and again anticipating a funding shortfall, UNHCR had to introduce further caps on the programme budget, non-staff administrative costs and the operational reserve in late 2005, as well as budgetary reductions at headquarters in the second quarter of 2006.

56. The Advisory Committee considered the UNHCR proposed programme budget for 2007 (A/AC.96/1026 and Add.1). The Committee noted that UNHCR based its proposed budget for 2007 on 2006 austerity levels and included several initiatives to ensure financial stability. **The Committee stresses the importance of ensuring predictability, flexibility and early funding, particularly in the context of the upcoming biennial budget cycle, as well as of expanding the base, since 97 per cent of UNHCR resources come in the form of voluntary contributions. The Committee welcomes the implementation of centrally managed incentive-based**

fund-raising, at the field level, and encourages further efforts to increase private-sector funding. In this connection, the Committee notes that UNHCR has set a target of $100 million to be raised annually from private sources by 2010; an investment of $8.4 million in the 2007 budget for such activities is expected to generate $37 million in private-sector income in 2008 (A/AC.96/1026, para. 153).

Inter-agency coordination

57. The Board reviewed operational coordination during 2005 between agencies working on development, humanitarian assistance, environmental issues and post-conflict peacebuilding at the country level, within the context of policies and mechanisms established by the United Nations Development Group, namely, common country assessments, the United Nations Development Assistance Frameworks, the resident coordinator system, the joint office initiative and common premises and services. These aim to strengthen the coherence and effectiveness of the United Nations system's contribution to a country's development efforts, including progress towards the achievement of Millennium Development Goals, such as poverty reduction. The Board also reviewed inter-agency procurement.

58. In its concise summary of principal findings (A/61/182, paras. 65-121), the Board provides an extensive review of the implementation of these inter-agency coordination mechanisms. In general, the review shows that while the framework, guidelines and policies are in place, much remains to be done before the "United Nations mission or 'country presence' ... can truly function as one integrated entity" (A/59/2005, para. 198). Some of the impediments to a closer integration of all United Nations entities into a unified country presence are structural: for example, with respect to the joint office model, the fact that different agencies use different ERP systems, that certain agencies such as UNICEF and UNHCR have not yet extended their ERPs to country offices, and difficulties with respect to joint office budgeting and reporting to the participating agencies. Furthermore, agencies benefiting from free or preferential accommodation on the basis of their cooperation agreement with the host Government may not have an incentive to participate in the United Nations House initiative. **However, the Advisory Committee is convinced that a true integration of country teams at the operational level will require the involvement, determination and commitment of senior management to drive the process on a day-to-day basis. The Committee emphasizes the strategic nature of these initiatives, which are important elements of the Secretary-General's reform, and requests the Board of Auditors to follow up on this matter in its next audits.**

59. With respect to inter-agency procurement, the Advisory Committee welcomes the progress made with respect to the development and enhancement of common tools such as the vendor directory known as the United Nations Global Marketplace and the procurement services system, United Nations WebBuy. **The Committee agrees with the Board's observation on the absence of formalized processes and directives to ensure coordination in the area of procurement at the country office level, and that the Inter-Agency Procurement Services Office could play a key role in supporting resident coordinators in this regard (A/61/182, para. 107). In the light of the limited effective coordination and cooperation in the area of procurement, the Committee is of the view that the Inter-Agency Procurement Working Group could be more active in promoting inter-agency**

cooperation, disseminating information on the modernization of procurement practices and making proposals for the cost-effective sharing of procurement resources.

Response to the Indian Ocean tsunami

60. The Advisory Committee's comments on the tsunami response with regard to the Office for the Coordination of Humanitarian Affairs are contained in paragraphs 33-36 above. The Board's comprehensive review of the tsunami response assesses the emergency preparedness of the country teams, assessment needs methodology, the effectiveness of the immediate response to the tsunami, the effectiveness of system-wide coordination, civilian-military coordination, the transition from emergency relief to rehabilitation, the country team's anti-fraud strategy, monitoring of financial flows, financial controls, human resources mobilization and procurement, supplies and logistics management (A/61/182, paras. 122-151). The principal agencies involved in the response were the Office for the Coordination of Humanitarian Affairs, UNDP, UNHCR and UNICEF, as well as UNEP and UN-Habitat.

61. The Board indicated that the overall effectiveness of the immediate response was satisfactory, even though up-to-date emergency preparedness plans in the countries most affected — Indonesia, Sri Lanka and Maldives — were incomplete or non-existent.

62. The Board highlighted difficulties with respect to inter-agency coordination, due in part to the scale of the disaster and the number of participants, as well as in respect of civilian-military coordination. Moreover, the United Nations and its funds and programmes did not share a common rapid assessment methodology or a fraud-prevention strategy. Information generated by incompatible information systems, IMIS and Atlas led to significant delays (see para. 58 above). Financial controls with respect to cash assistance and verification of the capacity of implementing partners were insufficient. Significant numbers of staff were deployed to the affected areas, but there were some weaknesses in the emergency recruitment process and a lack of coordination, with UNDP, UNICEF and the Office for the Coordination of Humanitarian Affairs setting up separate rosters of emergency personnel. In a number of cases, items purchased remained unused, and the Board could not confirm that all contracts over $100,000 had been reviewed in accordance with procurement rules.

63. The United Nations response to the tsunami constituted a valuable opportunity to evaluate the actual effectiveness of the system-wide coordination, even though the scale of the disaster was somewhat atypical and extreme. **As indicated in paragraph 36 above, the comprehensive report on the United Nations response to the tsunami will be finalized at the end of 2006. The Advisory Committee will revert to this matter, if necessary, at that time.**

Procurement and contract management

64. The Board's findings indicate serious deficiencies across the system in a variety of procurement functions (A/61/182, paras. 152-165). UNICEF, the United Nations Office at Geneva and UNDP did not comply strictly with the rules and regulations regarding segregation of incompatible functions; for example, the same accounting officer certified and approved invoices with a value of $50,000 or more.

Procurement plans were not established at the United Nations, UNDP, UNHCR, UNICEF, UNEP, the United Nations University, UNDCP and UNFPA. Actual needs for equipment were not properly assessed, with items purchased remaining unused in several cases. Vendor databases were not updated in a timely manner (UNHCR), and they contained incomplete information on financial reliability, records of meetings, decisions and performance appraisals. In some cases, contracts were awarded to unregistered vendors and equipment was supplied without formal requisitions and purchase orders. The Board also observed shortcomings in respect of solicitation procedures, such as direct price negotiations between a requisitioner and a vendor.

65. **The Advisory Committee is deeply concerned by the widespread failure to comply with procurement rules and regulations. Given the highly decentralized organizational structure of some of the organizations, which operate across widely dispersed geographical settings, often under difficult conditions, with procurement levels in the millions of dollars, the risks of fraud, waste, mismanagement and abuse cannot be underestimated. In the view of the Committee, the United Nations rules and regulations, guidelines and policies on this subject are clear and comprehensive. It is essential that appropriate mechanisms for enforcing strict compliance with the regulations and appropriate sanctions for non-compliance be developed and promulgated as a matter of urgency. All failures to adhere to rules and regulations should be recorded and responsibility clearly attributed, with explanations and justifications for the decisions made (see also paras. 25-26 above).**

Human resources management

66. The Advisory Committee notes that UNDP, UNFPA, UNEP and the International Tribunal for the Former Yugoslavia have not yet achieved the 50/50 gender distribution goal and that at UNEP, UNDP and the Tribunal males continue to predominate in the number of initial appointments.

67. The Board pointed to the deficiencies in the emergency recruitment process during the human resources mobilization efforts for the tsunami response, in particular at UNDP and the Office for the Coordination of Humanitarian Affairs due to the absence of a roster of staff experienced in the management of humanitarian disasters. It points out that at UNFPA, the lead time for recruiting candidates was shortened by the use of rosters. **The Advisory Committee emphasizes that rosters constitute an essential tool for accelerating the recruitment process and encourages all organizations to maintain rosters and to update them regularly.**

68. With respect to geographical representation, the Advisory Committee notes that the Board provides a factual presentation (see also paras. 28-29 above). The Board indicates that at the International Tribunal for the Former Yugoslavia, with a total of 326 Professional-level positions subject to geographical representation, five developed countries were overrepresented, whereas at the United Nations Institute for Training and Research, the share of staff members from Europe and North America declined from 76 per cent in 2004 to 70 per cent in 2005. UNDP applies a North/South, or developed/developing countries, geographic balance factor in its selection processes, with a 50 per cent target for each category.

69. The Board reviewed the process of hiring, remunerating and evaluating the performance of consultants and individual contractors by UNEP headquarters and its

regional offices and noted numerous practices that were inconsistent with established rules (A/61/5/Add.6, chap. II, para. 89). For example, contrary to the provisions of ST/AI/1999/7, special service agreements were still used for consultants and individual contractors; individual contractors had been hired for a period of between 10 and 12 months during certain periods of 12 consecutive months; and there was no evidence that the selection process was based on the prescribed criteria, since the verification of the credentials, qualifications and experience of prospective candidates was not documented.

70. UNEP agreed with the Board's recommendations that it comply strictly with administrative instructions on hiring, remunerating and evaluating the performance of consultants and individual contractors and that it reprogramme the Integrated Accounting and Budgeting System to address the requirement concerning the form of the contract. **The Advisory Committee is concerned by the apparent lack of accountability in the face of what can only be considered serious violations of established rules. It requests that in such cases, responsibility for non-compliance with rules and regulations be clearly assigned and that all authorized sanctions be applied.**

71. At the International Trade Centre (UNCTAD/ITC), the Board noted that a total of 806 consultants were hired for technical cooperation activities, of whom 52 per cent originated from North America and Europe and only one third were female (A/61/5 (Vol. III), chap. II, para. 36). The Board pointed out that administrative instruction ST/AI/1999/7 requires that "every effort shall be made to select consultants from the widest possible geographical base" and recommended that ITC continue its efforts to improve the geographical and gender balance of consultants and experts.

72. The Board of Auditors points out that, as of May 2006, UNHCR had not fully implemented the previous Board recommendation that it completely phase out the use of project staff (A/61/5/Add.5, chap. II, para. 121). The Advisory Committee notes that, for two of the deployment schemes in case of emergency (surge and resettlement), UNHCR has signed agreements with two non-governmental organizations that maintain a roster of individuals who can be recruited for quick mobilization and deployment; UNHCR argues that staff so recruited should not be considered "project staff" (A/AC.96/1026, annex I.7) and that the use of project staff, as defined previously, has been eliminated.

Fraud and presumptive fraud

73. Upon request, the Advisory Committee was provided with a table on reported cases of fraud and presumptive fraud for the biennium ended 31 December 2005 (see annex II below). Paragraphs 281 to 284 of the Board's report on UNHCR (A/61/5/Add.5, chap. II) provide information on the reporting of 14 cases of fraud and presumptive fraud at UNHCR for the financial period ended 31 December 2005. The Committee was informed that internal control systems are planned to be further enhanced in 2007 to improve accountability and transparency, minimizing risks of mismanagement and waste. Measures taken up to now include strengthening the Inspector General's Office, a training programme for staff called for specific investigations as required, and increased efforts in communication. For example, in February 2006, UNHCR launched the Accountability Portal, accessible to all staff from the Intranet, which serves as a repository of information related to human and

financial resources and provides links to sources of information such as the Fraud Bulletin. **The Committee welcomes the measures taken and recommends that UNHCR continue to strengthen controls and mitigate the risk of fraud.**

Information and communication technologies

74. In the case of UNDP, the Board modified its opinion with respect to the new ERP system, highlighting its concerns on internal control deficiencies that existed during the biennium 2004-2005 and that had been reported previously, such as the lack of an adequate segregation of duties; the non-activation of the general ledger module for most of 2004; and the lack of an automated reconciliation between the subsidiary ledger and the general ledger bank account. The Board also noted that the UNDP global payroll and the trial balance of the Brazil country office were not being reconciled to Atlas on a monthly basis throughout the biennium 2004-2005.

75. As a result of these gaps, headquarters and country office bank accounts had not been reconciled on a monthly basis during the biennium 2004-2005 and it was not possible to implement a streamlined and automated bank reconciliation process. It was therefore necessary to carry out complex, manual bank reconciliations at the end of the biennium (see paras. 50-51 above).

76. The Board also followed up on the extensive recommendations made in its previous report (A/59/5/Add.1, chap. II, paras. 124-206) in respect of the pre-implementation of Atlas. This joint UNDP/UNFPA/UNOPS project was implemented in January 2004 at UNDP headquarters and at all country offices with the exception of the Brazil country office, which was already using another ERP system (SAP).

77. **The Advisory Committee endorses the Board's recommendation that UNDP urgently address weaknesses of the Atlas system.**

78. The Committee notes that the weaknesses of the internal control framework of the Atlas system noted above were identified by the Board in its previous report (A/59/5/Add.1, chap. II, para. 206) and resulted in the operational difficulties anticipated by the Board. Three reviews of the Atlas system have already been carried out by the Office of Audit and Performance Review of UNDP, and the various recommendations resulting from the reviews are in the process of being implemented.

79. **The Advisory Committee shares the Board's concerns with respect to the implementation of Atlas; it is now clear that the numerous risks inherent to the implementation of a system of this magnitude were not properly assessed in the pre-implementation phase. It is not clear, even at this stage, whether there is a full understanding of the challenges of maintaining such a system. The experiences of other agencies that have implemented ERP systems, such as the World Food Programme, point to further difficulties, as the system will need to be upgraded, due to changes either in the operating systems or in the versions of or support for the PeopleSoft software, which will be even more acute if the standard software implemented at UNDP has been customized extensively.**

80. **The Advisory Committee, the Board and the Joint Inspection Unit (see A/58/82) have consistently stressed the need for greater inter-agency cooperation on ICT matters throughout the United Nations system. In its previous report the Committee pointed out that the isolated implementation of**

ERP systems by individual organizations did not allow them to share economies of scale or returns on experience, and exposed them to greater risks. The Committee is not convinced that an objective, in-depth analysis of the feasibility of applying a common business model and standards to develop a solution that is applicable across the United Nations system has indeed been attempted. The upcoming adoption of the International Public Sector Accounting Standards, which will require many organizations that have already implemented an ERP system to upgrade to later versions of either SAP or PeopleSoft, and will require others, such as the United Nations, to migrate from IMIS to an ERP system by 2010, presents an opportunity for conducting such a study.

Annex I

Liabilities for annual leave, end-of-service and post-retirement benefits as at 31 December 2005

(Millions of United States dollars)

Organization	*Annual leave*	*Repatriation*	*After-service health*	*Total*
International Criminal Tribunal for Rwanda	10.6	7.9	24.7	43.2
International Tribunal for the Former Yugoslavia	4.2	5.3	17.5	27.0
International Trade Centre	1.9	4.5	41.2	47.6
United Nations	118 to 123	100 to 105	2 072.8	2 290.8 to 2300.8
United Nations Compensation Commission	0.7	1.4	2.9	5.0
United Nations Human Settlements Programme	Not available	Not available	Not available	—
United Nations International Drug Control Programme		7.4[a]	1.4	8.8
United Nations Development Programme	22.8	23.8	406.86	453.46
United Nations Environment Programme	Not available	Not available	Not available	—
United Nations Population Fund	7.6	8.3	61.6	77.5
Office of the United Nations High Commissioner for Refugees	24	145	249	418
United Nations Children's Fund	38.9	36.9	292.4	368.2
United Nations Institute for Training and Research	0.4	0.7	1.9	3.0
United Nations Relief and Works Agency for Palestine Refugees in the Near East	1.5	168.07	Not available	169.57
United Nations University	1.3	1.0	3.6	5.9
United Nations Joint Staff Pension Fund	Not available	Not available	Not available	—
Total	**231.9 to 236.9**	**510.3 to 515.3**	**3 175.86**	**3 918.03 to 3 928.03**

[a] Covers both annual leave and repatriation; the breakdown was not provided.

Annex II

Reported cases of fraud and presumptive fraud for the biennium 2004-2005

Organization	*Cases reported*	*Cases where estimated losses were determined*	*Estimated loss* (United States dollars)	*Amount recovered* (United States dollars)
United Nations	7	2	1 889	1 889
United Nations Development Programme	25	24	1 585 793	676 999
United Nations Population Fund	8	5	111 094	83 784
United Nations Human Settlements Programme	2	1	4 202	0
United Nations Children's Fund	42	41	482 979	210 884
Office of the United Nations High Commissioner for Refugees	14	11	169 156	7 207
United Nations Relief and Works Agency for Palestine Refugees in the Near East	11	1	24 647	5 990
International Criminal Tribunal for Rwanda	6	5	33 333	23 972
International Trade Centre	2	0	0	0
United Nations University	0	0	0	0
United Nations International Drug Control Programme/United Nations Office on Drugs and Crime	0	0	0	0
International Tribunal for the Former Yugoslavia	0	0	0	0
United Nations Institute for Training and Research	0	0	0	0
United Nations Joint Staff Pension Fund	0	0	0	0
United Nations Environment Programme	0	0	0	0
Total	**117**	**90**	2 413 093	**1 010 725**

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Promotion and protection of human rights: implementation of human rights instruments

Follow-up to the outcome of the Millennium Summit

Letter dated 14 September 2006 from the Permanent Representative of Liechtenstein to the United Nations addressed to the Secretary-General

I have the honour to transmit the attached Chairperson's summary of an international meeting of experts on the theme of treaty body reform (known as "Malbun II"), held in Triesenberg, Liechtenstein, from 14 to 16 July 2006 (see annex). The meeting was organized jointly by the Office of the United Nations High Commissioner for Human Rights and the Government of Liechtenstein.

I should be grateful if the present letter and its annex could be circulated as a document of the General Assembly, under agenda items 67 (a) and 113.

(*Signed*) Christian **Wenaweser**
Ambassador
Permanent Representative

06-52643 (E) 051006

Annex to the letter dated 14 September 2006 from the Permanent Representative of Liechtenstein to the United Nations addressed to the Secretary-General

Chairperson's summary of a brainstorming meeting on reform of the human rights treaty body system ("Malbun II")

(Triesenberg, Liechtenstein, 14-16 July 2006)

Introduction

1. A brainstorming meeting on reform of the human rights treaty bodies was organized jointly by the Office of the United Nations High Commissioner for Human Rights (OHCHR) and the Government of Liechtenstein.[1] The "Malbun II" meeting took place in Triesenberg[2], Liechtenstein, from 14 to 16 July 2006. The meeting was attended by members of human rights treaty bodies, representatives of States, United Nations entities, independent national human rights institutions and non-governmental organizations (NGOs). A presentation on approaches to streamlined reporting using a web-based tool was provided to participants by Christoph Spenle, an expert from the Swiss Federal Department of Foreign Affairs. A briefing on the outcome of the expert workshop on reform of United Nations human rights treaty monitoring bodies held at the University of Nottingham on 11 and 12 February 2006 was given by Michael O'Flaherty, the chairperson of the workshop.

2. In addition to the concept paper on the High Commissioner's proposal for a unified standing treaty body, prepared by the Secretariat, which had already been introduced to all stakeholders in Geneva (HRI/MC/2006/2), the following papers were presented to the meeting: a preliminary non-paper on legal options; the proposals on treaty body reform put forward by the Committee on the Elimination of Racial Discrimination (CERD), the Committee on the Rights of the Child (CRC) and the Committee on the Elimination of Discrimination against Women (CEDAW); and a compilation of views on treaty body reform prepared by the Secretariat at the request of the fifth inter-committee meeting.

3. The meeting was opened by Louise Arbour, High Commissioner for Human Rights, who thanked the Government of Liechtenstein for generously hosting a brainstorming meeting for the second time. She offered introductory remarks on the issue of treaty body reform, including her proposal for a unified standing treaty body.

4. The meeting was chaired by Christian Wenaweser, Permanent Representative of Liechtenstein to the United Nations in New York.

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[1] The report of the first brainstorming meeting held from 4 to 7 May 2003 in Malbun, Liechtenstein, is contained in A/58/123, annex.

[2] For logistical reasons, the venue of the meeting was transferred from Malbun to Triesenberg, Liechtenstein. For reference purposes and to underline the follow-up character of the meeting, it is referred to as "Malbun II".

5. The format of the meeting followed the model adopted during the first meeting on treaty body reform, held in Malbun, Liechtenstein, in 2003. It was thus an informal brainstorming meeting with the sole purpose of exchanging views on ideas presented on treaty body reform and of further developing them. The goal was thus not to come to conclusions or find agreements, it being understood that such decisions should be taken by the meetings of States parties. It was underlined that the treaty bodies themselves could also take action to reform and streamline their work.

Opening statement by the High Commissioner for Human Rights

6. In her opening address, the High Commissioner for Human Rights emphasized that the human rights treaty system was the cornerstone of the United Nations framework for human rights. She noted the achievements of the system, but indicated that it was almost universally acknowledged that the system faced significant challenges. She was concerned that these challenges would deepen as the objectives of universal ratification/acceptance of all optional procedures, timely reporting by States parties and the introduction of new specific treaties were achieved.

7. The High Commissioner indicated that she had responded to the Secretary-General's invitation to address the human rights aspects of his call for reform by proposing the creation of a unified standing treaty body. She recognized that steps could be taken to improve the functioning of the treaty body system in the short and medium terms, and noted proposals put forward by some treaty bodies in this regard. She considered that more fundamental structural change would be required in the longer term.

8. The High Commissioner was aware that many important issues should be addressed during the consideration of the possible creation of a unified standing treaty body, and noted the importance of initiating a process of discussion to identify ways to enhance the system's authority and visibility, prioritize action at the country level to comply with human rights obligations, improve the use of financial and human resources, and strengthen the coherence and consistency of legal interpretation and working methods.

Chairperson's summary

9. The following constitutes the Chairperson's summary of the discussions that took place during the plenary session of the brainstorming meeting on treaty body reform on 14 and 15 July 2006, which he produced in his personal capacity. It reflects both plenary discussions, which dealt with a general consideration of treaty body reform, and plenary meetings which addressed the reports from various working groups on the content and outcomes of their discussions, although it should be noted that some proposals were discussed in the working groups only. The summary is structured along the lines of the specific topics raised during these discussions.

10. The meeting first held a general discussion on reform of the treaty body system. Thereafter, it discussed, in working groups, five specific themes reflecting the overall nature of the meeting and thus addressing the concept paper as well as other reform proposals: specificity; proposals put forward by CERD, CRC and CEDAW; harmonization of working methods; legal issues; and the High

Commissioner's proposal for a unified standing treaty body. The Chairperson's summary first reflects the general discussion and then addresses specific topics raised both in the context of the general discussion and in the framework of the five working groups dealing with specific aspects of treaty body reform. The summary distinguishes between topics raised as challenges to the existing system and issues to be considered in reform initiatives.

General discussion, including of the concept paper

11. It was understood that the discussions at the brainstorming meeting were not limited to one particular approach to treaty body reform. Rather, it was made clear that treaty body reform needed to address all challenges facing the current system and that a number of measures could be considered to meet all of those challenges.

12. With regard to the option of creating a unified standing treaty body, statements delivered on behalf of the African and Asian Groups made it clear that these two Groups were not in favour of such a proposal. This view was echoed by others, and the proposal to create a unified standing treaty body found generally little support, while some delegations took the position that they saw great merit and potential in the proposal and wanted to see it discussed further. Still others made it clear that their respective countries did not have a position on the proposal as yet and needed more time, background information and analysis before taking a position on this far-reaching proposal. In connection with the proposed unified standing treaty body, reference was made to the system of the International Labour Organization (ILO), which provided for a single body of a non-standing nature to handle States' reports, one that was able to process some 2000 reports per year. While the two systems were not comparable in all their aspects, the ILO model could nevertheless be useful in considering the possible creation of a unified standing treaty body.

13. Irrespective of the differing positions on the unified standing treaty body, the concept paper was welcomed as a valuable contribution to the further discussion of treaty body reform in that it identified these challenges. The view was expressed that the concept paper contained many elements that could greatly enhance the quality of the discussion on treaty body reform. Participants called the proposal of the High Commissioner aspirational and ambitious. However, some pointed out that it was unclear how the proposed body would effectively address the problem of reporting burden, and the concern was expressed that such a body would be of a quasi-judicial character. It was also pointed out that the different ratification patterns of human rights treaties could pose difficulties in the creation of a unified standing treaty body. Some participants argued that the concept paper did not contain the level of analysis needed to reach its conclusion that the creation of a unified standing treaty body was the best way to address the manifold challenges. Rather, a more in-depth discussion of those challenges was needed before a conclusion could be reached on which would be the best way forward. It was also noted that the concept paper did not address all challenges facing the system or challenges resulting from reform. The point was made that empirical information on how a unified standing treaty body could address these challenges was required, and it was suggested that if the decision were made to move in the direction of a unified standing treaty body, States might pilot the examination of reports or communications by members of several treaty bodies.

14. Participants showed a keen interest in discussing short-term practical measures which, especially if combined, could help to address the challenges to the system outlined in the concept paper. The view was expressed that preference should be given to short-term practical measures which did not require any legal action. After the adoption and implementation of such measures, and the completion of a testing phase of the changes in place, other reform proposals could still be discussed if further, and possibly more far-reaching, measures were needed. Others held the view that structural and institutional streamlining of the current system was in the long term desirable, and that short-term practical measures should be implemented with such a vision in mind.

15. Many participants were reluctant to engage in discussions of the six options for a unified standing treaty body contained in the concept paper, due to their opposition in principle to this approach. Those who saw potential future merit in the proposal to create a unified standing treaty body favoured further discussion of the proposal. Several participants made it clear that the current level of debate did not allow them to take a final position on the proposal to create a unified standing treaty body. However, there was recognition that the concept paper had made a valuable contribution by identifying the challenges, that it contained many useful elements for the reform discussion and that it was particularly helpful in galvanizing the required debate on treaty body reform. Concern was voiced that its useful elements might be lost in a focus on its conclusion.

16. In the course of a hypothetical discussion of the options contained in the concept paper, the view was expressed that organizing a unified standing treaty body in regional chambers was undesirable, as this would replicate the regional human rights systems and might result in normative fragmentation. Some were attracted to the idea of organizing the body in chambers along treaty lines, since this would preserve the specificity of the current system, but others considered that this would merely recreate the current system. Several participants indicated that the six options presented in the concept paper for the organization of the unified standing treaty body were not exhaustive, and that there might be several ways of combining them. The view was expressed that none of the options outlined would address all the challenges, while others indicated that no approach could address all challenges. It was questioned whether a unified treaty body should necessarily be a standing body, and it was recommended that there be further discussion on this, including on whether it should be a part-time body, as in the case of the ILO supervisory system. There were also reservations expressed with respect to permanent membership, in particular that permanent members might lose their connection with constituencies outside the United Nations system, and divergent views were expressed as to whether it would be desirable for such a body to have full-time, fully remunerated experts. The point was also made that OHCHR could play a more active role in addressing a number of the challenges confronting the treaty body system, especially in streamlining reporting procedures and scheduling examination of reports.

Harmonization of Working Methods

17. Participants emphasized the need for harmonizing working methods in order to make the treaty body system more accessible and transparent to States parties and other stakeholders, including United Nations entities, NGOs and national human rights institutions. Several participants welcomed the guidelines on reporting, including on the common core document, and some felt that they needed

some fine-tuning and some discussion with States. It was noted that the fifth inter-committee meeting of the human rights treaty bodies, in accepting the guidelines, had recommended that they be applied flexibly, and resolved to review their implementation in 2008, taking into account the experience of the treaty bodies.

18. The point was made that focused reporting could be useful, especially if combined with the common core document. It was noted that reporting guidelines across treaty bodies were diverse and that there should be harmonization of reporting requirements. It could therefore be beneficial for treaty bodies to assist States in preparing focused reports, in particular by submitting lists of issues which could guide the preparation and content of the report. The point was made that previous concluding observations could assist in this regard. Several participants invited the treaty bodies to proceed expeditiously to elaborate harmonized guidelines for focused reports.

19. There was recognition that the treaty body system would benefit from a consistent approach, which would both facilitate the production of reports to be submitted by States and ensure the equal treatment of all human rights.

20. Several proposals for further improvements were made. It was suggested that treaty bodies could adopt a more consistent, concrete, strategic, and focused approach in preparing their dialogues with States parties and elaborating their concluding observations and recommendations, which would assist both States in their work on implementation and United Nations entities in their programming and delivery. A more consistent, harmonized and transparent approach to follow-up procedures would also be useful. All treaty bodies should make documents relating to follow-up widely available, including through the Internet. Better coordination among the treaty bodies would also help to avoid duplication. It was noted that the appointment of focal points in treaty bodies was useful in that it improved the work of the treaty bodies on specificity, and that it should be made more consistent. The important role of independent national human rights institutions for systematic follow-up/implementation was underlined. It was suggested that harmonization among the treaty bodies should extend to all areas of their work, including individual communications. It was mentioned that consistency in the jurisprudence of the treaty bodies would be beneficial and that this could be achieved through the creation of a unified individual communications mechanism. A number of participants encouraged the use of joint general comments and joint general recommendations by the treaty bodies, as well as joint working groups and task forces, while others expressed reservations at such a proposal.

Backlogs

21. It was noted that there had been progress in addressing the problem of backlog in the consideration of reports and that a majority of treaty bodies were not currently facing this particular challenge. With regard to the backlogs that still exist, the view was expressed that additional meeting time, possibly allocated by a bureau of the seven chairpersons as suggested by CRC, was required in order to enable the respective treaty bodies to deal with this problem. Others expressed the view that solutions to this problem should be found by those treaty bodies which did not require any additional resources, for example by securing a more focused dialogue between treaty bodies and States parties.

delegations and by identifying priority issues and concerns. The chamber system established by two treaty bodies on a temporary basis was favourably commented on in connection with the issue of backlogs.

Non-reporting

22. It was noted that non-reporting by States parties was a recurrent fundamental problem which undermined the effectiveness of the treaty body system as well as reform initiatives. In this context, the view was expressed by some that institutional change might not be able to address this issue and that other measures would be needed. Technical assistance could be essential in this respect, although it would not be useful in cases where non-reporting was due to lack of political will. The view was expressed that the review procedures for non-reporting States should be reconsidered.

Visibility

23. The view was expressed that the visibility of treaty bodies should be increased in order to enhance their standing and accessibility, including with regard to the individual communications procedures. It was suggested that better dissemination was needed of concluding observations and recommendations, including through Secretariat initiatives and better use of the Internet, as well as radio broadcasts and live webcasts of treaty body meetings. It was suggested that treaty body sessions could be convened in States parties, although the view was also expressed that such meetings would entail additional costs. The creation of a single system for individual communications procedures was also mentioned in the context of the discussions on visibility. The role of OHCHR, United Nations field presences and independent national human rights institutions in promoting the visibility of the system was also emphasized.

Role of the Office of the United Nations High Commissioner for Human Rights

24. It was proposed that the Secretariat could take on a greater coordinating role with respect to the administrative aspects of the work of treaty bodies. In this regard, the view was expressed that the system would benefit if all treaty bodies had a shared Secretariat. It was suggested that the timing of the examination of reports for each State party could be better coordinated among the treaty bodies, with the assistance from the Secretariat, in order to allow States parties to schedule their reporting and presentations before treaty bodies. It was suggested that harmonization between the treaty bodies might be extended beyond the consideration of reports, in particular to the area of petitions.

25. Some participants expressed the view that the decision by the World Summit 2005 to double the resources of OHCHR within the next five years offered a unique opportunity to enhance the capacity of the Secretariat in the area of treaty body work. Concern was expressed that these resources might be directed to areas other than the support of the treaty body system as strengthening other areas might be perceived as more urgent than the technical treaty body work. It was essential to enhance the capacity of OHCHR to support the treaty bodies and provide technical assistance to States parties in regard to reporting and follow-up. Current and past technical assistance activities should be evaluated and further improved. The view was expressed that a more unified Secretariat

was important in the area of treaty body work and that more specific expertise should be available within the Secretariat. It was suggested that a high-level policy post should be created within the Secretariat to ensure coherence, including with regard to the jurisprudence of treaty bodies in the individual complaints procedure and the identification of priorities and coordination of resources for treaty body work.

Criteria for membership

26. Questions were raised as to whether the current selection process for treaty body members ensured the election of members with appropriate expertise and independence. The view was expressed that the selection process prior to nomination could be improved. In this context, the importance of transparent national nomination and selection procedures was emphasized, and it was also suggested that the information on candidates available to States parties should go beyond circulation of curricula vitae and that holding open discussions with candidates for treaty bodies might assist States parties in making decisions when electing treaty body experts. It was also stated that the practice of casting votes in exchange for votes in connection with other elections could have a negative impact on the quality of membership. Reference was made to the elections of judges for the International Criminal Court, which were conducted on the basis of firm criteria for expertise, gender and geographical distribution. It was noted that these criteria were contained in the relevant provision of the Rome Statute of the International Criminal Court and could therefore not as such be transferred to the treaty body system, unless amendments to the treaties were proposed. It was understood, however, that such elements could also be considered, particularly at the national level, as candidates were identified, without incorporating them in the treaties. The view was expressed that there should be enhanced accountability of treaty bodies or treaty body members to States parties and that this issue would be of particular relevance if treaty body members were to be remunerated. Another opinion held that accountability was limited to the time of election, and possibly re-election, of a treaty body expert.

Issues to be considered in reform initiatives

Specificity

27. It was understood that the term "specificity" referred in the first instance to the protection through the treaty body system of certain categories of rights and rights-holders. However, it was also noted that specificity was a larger notion than the subjects of specialist treaties. This included issues of the displaced and of disability (on which a specific treaty was currently being elaborated). Some participants noted that a unified standing treaty body could not preserve the same level of specificity as the current system of treaty bodies. It was also highlighted that addressing specificity properly had implications for stakeholders, including States parties, treaty bodies, United Nations entities, NGOs and the Secretariat.

28. It was noted that the current treaty body system had made significant achievements with regard to the protection and promotion of certain categories of rights and rights-holders, including women, children, migrant workers, and victims of racial discrimination and torture, and that

specificity overall constituted one of the strengths of the current system. However, it was felt that there was much room for improvement, including in the area of working methods.

29. The view was expressed that the treaty bodies which monitor the implementation of the two Covenants needed to be more responsive to certain specific issues or groups addressed by other specific treaty bodies, e.g. women and children. It was questioned how a unified standing treaty body, if established, would address the issue of specificity. In this connection, it was stated that a unified standing treaty body meeting in plenary or a "general committee" would be unlikely to address specificity adequately. It was suggested that the one way to ensure specificity would be for the unified standing treaty body to meet in chambers along treaty lines. Nevertheless, it was pointed out that this would largely re-create the current system, as noted in the concept paper itself. Whatever system was created, it needed to be accompanied by the creation of mandatory guidelines for States parties and treaty bodies in order to ensure that appropriate attention was paid to specific issues or groups. Careful attention to the membership of a unified standing treaty body, including with respect to the possible role and relationship of members, was also regarded as critical in ensuring attention to specificity.

Relationship between existing human rights machinery and Universal Periodic Review

30. The view was expressed that the relationship between the Human Rights Council and the treaty bodies in the context of working out the modalities of the universal periodic review mechanism should be addressed and that there should be complementarity between the universal periodic review mechanism and treaty body outputs, as set out in paragraph 5 of General Assembly resolution 60/251, and that efforts should be made to avoid duplication. The view was expressed that the work of treaty bodies, in particular their concluding observations and comments as well as recommendations, could serve as a basis for the intergovernmental work carried out by the universal periodic review. It was understood that the topic required further discussion and needed to be taken into account in future reform efforts of the treaty body system. Some participants suggested that distribution of work among the treaty bodies and any special mechanisms of the Council should also be addressed to ensure complementarity and to avoid overlap.

Legal issues

31. There was recognition that the preliminary non-paper on legal options prepared by the Secretariat was helpful and comprehensive, and that it spelled out legal options that would hypothetically be available in the creation of a unified standing treaty body. Irrespective of whether or not the creation of a unified standing treaty body was considered desirable, it could not be argued that the creation of such a body was legally impossible.

32. However, the point was made that for each of the options suggested, unanimity would be required (or, possibly, consensus) to replace the existing treaty bodies without creating a parallel treaty body system which might result in a possible protection gap for rights-holders in some States parties. The establishment of a parallel regime for a considerable amount of time, as a result of lack of unanimity on one or another of the possible options, was seen as a risk in terms of divergent

jurisprudence. The status of reservations and declarations made by States parties to the existing treaties in the event of treaty amendments to create the unified standing treaty body had not been addressed.

33. While the advantages and drawbacks of the normal treaty amendment procedures or of a new procedural treaty were discussed, no views were expressed on the viability of options, since the existence of political will, which took into account the views of civil society, was essential prior to any debate about the legal options available to establish a unified standing treaty body. The point was made, however, that the non-paper contained innovative legal approaches and that the rights of third States and the constitutional role of parliaments should be taken into account in adopting such approaches, especially given the reluctance of some States to join all human rights treaties. It was also considered that the legal parameters for, and legal implications of, other possible reform options should also be examined in more detail.

Proposals submitted by CERD, CRC and CEDAW

34. Proposals focusing on the harmonization of working methods were put forward by CERD, CRC and CEDAW. There was a preliminary discussion of the CERD proposal to create a single body dealing with individual communications, the CRC proposal to create a permanent bureau of the chairpersons of the treaty bodies and the CEDAW proposal to work towards a harmonized and integrated human rights treaty body system. It was understood that these proposals warranted further discussion, possibly in the framework of inter-committee meetings or of a meeting of all treaty body members.

Harmonized treaty body system

35. Several participants supported the CEDAW proposal that there should be a harmonized and integrated treaty body system, but not a unified treaty body at the present time. There were different, while not mutually exclusive, opinions as to how this objective could best be achieved. Work to harmonize the working methods of the treaty bodies should intensify. There should be coordination and improvement of the follow-up procedures of the treaty bodies, both on concluding observations and on individual complaints, and efforts should be made to maintain the consistency of the jurisprudence of treaty bodies on individual complaints.

Unified individual complaints mechanism

36. It was recognized that the CERD proposal to create a unified body to handle individual complaints was legally feasible, including by way of an optional protocol. It was argued that this might enhance coherence of jurisprudence, taking into account the various provisions of the treaties, and create long-term better visibility and accessibility of the system. However, it was also stated that this might dissuade non-States parties from joining the system and adhering to optional complaints procedures. It was also cautioned that the establishment of a unified body examining individual complaints could create possible divergence between the legal experts in the unified body and those in the other treaty bodies. It was also said that there was no clarity as to how the experts on the unified

complaints body would rely on the contents of general comments and general recommendations adopted by the other treaty bodies, and how experts on the unified body might be able to contribute to the elaboration of general comments and general recommendations.

Permanent bureau of chairpersons

37. There was some interest in the CRC proposal that a permanent, remunerated bureau of the chairpersons of treaty bodies should be established and mandated to coordinate all the activities of the treaty bodies, including consideration of reports, general comments and follow-up activities. However, more details on the proposal, including its financial implications, mandate and relationship with the committees, would be required.

Mechanisms for future consideration of treaty body reform

38. It was understood that States parties had ownership of the treaty body system and that changes in the treaty body system therefore were within their competence. It was also pointed out that the treaty bodies themselves should be at the forefront of treaty body reform and that some reform measures could be implemented by the treaty bodies themselves, including in consultation with States parties. Input from treaty bodies was regarded as valuable for States parties as it would help them in making informed decisions on treaty body reform. In this context, open-ended inclusive consultations on treaty body reform, involving all stakeholders, should be convened, focusing also on technical issues. Participants noted the need for more consultation with national stakeholders through organization of regionally-based consultations. The following mechanisms were suggested as possible fora for further discussion on treaty body reform.

Inter-committee meetings

39. The CRC proposal to establish a permanent bureau of the seven chairpersons was welcomed by some, while others held the view that the role of proposed bureau could be fulfilled by an institutionalized and enhanced inter-committee Meeting mechanism which could meet for longer periods of time (one longer annual session or two annual sessions). It was noted that participants in the inter-committee meeting should be mandated to take decisions by their respective committees. It was suggested that enhanced use could be made of inter-committee meetings, which were an underutilized tool. The inter-committee meetings would benefit, in particular, from prior consultation with the treaty body members.

Joint meeting of all treaty body members

40. It was suggested that the discussions of treaty body reform could greatly benefit from information from all treaty bodies on their perspectives on possible reform measures. It might therefore be useful to have a joint meeting of all treaty body members in order to reach such an agreement. It was also suggested that such a meeting could be held in a smaller format.

Meetings of States parties

41. The point was made that States parties should not only meet in order to elect members to treaty bodies or to consider suggested amendments to treaties. Rather, these meetings could also be used in order to discuss issues of substance, including suggested reform measures. Such substantive discussions could also be used to enhance accountability of the treaty bodies to the States parties.

Intergovernmental meeting on the proposal to create a unified standing treaty body

42. With regard to the proposed intergovernmental meeting to consider options the view was expressed that the timing of such a meeting needed to be considered carefully, and in the light of further discussions.

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Subregional Centre for Human Rights and Democracy in Central Africa

Report of the Secretary-General*

Summary

In its resolution 60/151 of 16 December 2005, the General Assembly welcomed the activities of the Subregional Centre for Human Rights and Democracy in Central Africa at Yaoundé and noted with satisfaction the support provided for the establishment of the Centre by the host country. The Assembly requested the Secretary-General and the United Nations High Commissioner for Human Rights to provide the Centre with additional funds and human resources in order to enable it to efficiently respond to increased needs in the field of promotion and protection of human rights and to contribute to the development of the culture of democracy in Central Africa. The resolution also requested the Secretary-General to submit a report to the Assembly at its sixty-first session on the implementation of the resolution.

The present report provides an overview of the activities carried out by the Centre and the most significant developments in its operation from November 2005 to September 2006. These activities include support to capacity-building of national human rights institutions through training activities, technical cooperation activities, human rights education and dissemination of information and documentation; support to peace processes in the subregion; and development of partnerships with United Nations agencies, research and academic institutions, regional human rights mechanisms, as well as civil society organizations.

* The report is being submitted after the deadline so as to reflect the most recent developments.

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I. Introduction

1. The Subregional Centre for Human Rights and Democracy in Central Africa was established in 2001 pursuant to General Assembly resolution 54/55 A of 1 December 1999, at the request of Member States that are members of the Economic Community of Central African States (ECCAS). The Centre operates under the auspices of the Office of the United Nations High Commissioner for Human Rights (OHCHR).

2. The mission of the Centre is to contribute to the enhancement of capacities in the promotion and protection of human rights, and to support the creation and/or strengthening of national institutions. The Centre also strives to contribute to the development of a culture of human rights and democracy in Central Africa for the prevention of conflicts and the promotion of sustainable peace and development.

3. The Centre became fully operational in March 2001. In June 2002, it was officially inaugurated by the High Commissioner for Human Rights. The Centre has entered its fifth year of operations. It is at present composed of three professionals: a Director (the current Director took her position on 4 September 2006), a Regional Adviser on Democracy (the new Regional Adviser is being deployed in mid-September 2006) and a Human Rights Officer. An associate expert funded by the Netherlands joined the Centre in mid-September 2005. In addition, the Centre will welcome, by the end of 2006, a regional adviser for the implementation of the Action 2 Programme and the drafting of the regional human development report for the Great Lakes region. The Centre also comprises three local staff, including a documentalist.

4. In the fulfilment of its mandate, the Centre recently took into account the five objectives of the High Commissioner's Strategic Management Plan: country engagement to develop dialogue with national key actors, OHCHR's leadership in the field of human rights, development of partnerships, strengthening of relationships with human rights mechanisms and rationalization of resources management. The framework programme submitted by the Yaoundé Centre in the context of the adoption of the High Commissioner's Strategic Management Plan and the related approved project documents includes the following four objectives: to foster development programming based on human rights and human security; to strengthen rule of law as a key to democratization; to increase the awareness of and warning mechanisms on all forms of discrimination (including against women, children and minorities), and to build a joint institutional response machinery in developing the culture of human rights and democracy.

5. In addition to support from the regular budget, which increased in the context of the biennium 2006-2007, the Centre continues to benefit from extrabudgetary resources, especially through the trust fund provided by the Government of France for a three-year period. OHCHR provides full assistance for the proper functioning of the Centre in the fulfilment of its mandate.

II. Human rights activities

A. Strengthening national capacities

1. Subregional training workshops

6. In accordance with the activities foreseen as described in previous reports, the Centre organized the three following subregional training workshops:

(a) From 14 to 16 November 2005, the Centre, in collaboration with the Ministry of Justice of Cameroon, the United Nations Development Programme and the International Committee of the Red Cross organized a subregional seminar on human rights in prisons in Central Africa, in Douala, Cameroon, for 50 participants, including, in particular, directors of penitentiary administration, from the following ECCAS countries: Angola, Burundi, Central African Republic, Chad, Congo and Rwanda. The objective of the seminar was to discuss the means to better implement international rules on detention in general, and respect for human rights in prisons in particular. Among the recommendations adopted by participants, the development of a subregional action plan to improve the conditions of detention through legislative and institutional reforms was proposed;

(b) In collaboration with the Government of the Democratic Republic of the Congo, the Office of the High Commissioner for Human Rights in that country, the International Labour Office and the Working Group on Indigenous Peoples, the Centre organized a subregional seminar on the protection of human rights of indigenous peoples in Central Africa, in Kinshasa, from 28 to 30 December 2005. Forty-three participants representing civil society organizations and indigenous peoples' associations from Angola, Burundi, Cameroon, the Central African Republic, Chad, the Democratic Republic of the Congo and Gabon attended the seminar. The main objective of the seminar was to help strengthen the capacity of the participating organizations and associations in the promotion and protection of the rights of indigenous peoples. In this framework, participants adopted a declaration and strategic action plan including a follow-up mechanism, through the establishment of a subregional network to monitor and report of the situation of indigenous peoples and to serve as a forum for consultation with decision-making actors at local, national and international levels on their situation. They also established a subregional network for the protection of the rights of indigenous peoples.

2. Advisory services and technical cooperation

7. During the period under review, the Centre provided support to the Governments, national human rights institutions and civil society organizations of Cameroon and the Congo.

(a) Cameroon

8. In the framework of the implementation of activities under the United Nations Development Assistance Framework (UNDAF) 2003-2007, relating to strengthening of governance, including the justice and human rights sectors, UNDP and the Centre developed a joint project to support the efforts of Cameroonian authorities to consolidate the rule of law and to promote human rights. The project includes several capacity-building activities for the National Commission on Human Rights

and Freedoms, the Human Rights Division of the Ministry of Justice and civil society organizations. In this context, UNDP and the Centre assisted the Ministry of Justice in the preparation and publication of the first governmental report on the situation of human rights in Cameroon in 2005, launched during a seminar held on 24 and 25 April 2006 in Yaoundé.

9. The Centre also provided its assistance to the National Commission on Human Rights and Freedoms for the elaboration of human rights curricula for primary, secondary and high educational institutions, including military academia. The *Cahiers pédagogiques* produced during a three-year process were adopted during a seminar held in Yaoundé, from 7 to 9 February 2006. This was considered as an important contribution to the implementation of the World Programme for Human Rights Education in primary and secondary schools, adopted by the General Assembly in its resolution 59/113 of 10 December 2004.

10. The Centre continued to provide support to the implementation of the joint OHCHR/UNDP Assistance Community Together project. In 2006, six Cameroonian non-governmental organizations working in the fields of peace (Cameroon Youth and Students Forum for Peace); governance (Global Network for Good Governance); development (*Association d'auditeurs, d'assistants et de formateurs coopératifs*; Research Institute for Development and the *Fédération des organisations rurales de l'extrême-nord*) and social issues (Forum camerounais de psychologie) rights received grants from the project. The beneficiary organizations would implement activities in the field of human rights education during a period of eight months.

(b) Congo

11. As a result of advocacy initiatives by non-governmental organizations participating in the International Conference on the Great Lakes region, regional workshops and the Centre for the promotion and protection of the rights of indigenous people in Central Africa, the Government of the Congo requested OHCHR technical assistance in the elaboration of a draft law on Pygmies. OHCHR, the Centre and the International Labour Organization provided this technical assistance and organized two workshops in Brazzaville, in May and in July 2006, to ensure the participation of indigenous representatives, civil society and other relevant civil society organizations in the process. The Ministry of Justice of the Congo is expected to submit a final version to the Council of Ministers and the Parliament by the end of 2006.

3. Empowering civil society organizations

12. The Yaoundé Centre and the Centre for Conflict Prevention of Cape Town, South Africa, organized a joint subregional workshop on the role of civil society organizations in conflict prevention and peacebuilding in Central Africa, in Douala (Cameroon), from 10 to 12 April 2006. Sixty participants from Burundi, Cameroon, the Central African Republic, Chad, the Democratic Republic of the Congo, Equatorial Guinea, Gabon and Rwanda attended the workshop. ECCAS and the United Nations Office in the Central African Republic (BONUCA) were also represented. The aim of the workshop was to strengthen the role of civil society organizations in the fields of conflict prevention and peacebuilding through the reinforcement of their partnerships with the ECCAS and the Centre. Participants

adopted a declaration recommending to the Centre, inter alia, cooperation with civil society organizations working in the fields of human rights, conflict prevention, gender and peacebuilding in Central Africa, including for the creation of networks, fund-raising and projects formulation, monitoring and evaluation.

4. Internship programme

13. Since 2001, the Centre runs a continuous three-month internship programme for four fellows selected among candidates which includes graduate students, human rights activists, lawyers, judges and representatives of Governments, national human rights institutions and civil society organizations involved in the promotion and protection of human rights and the rule of law in the subregion.

14. The seventeenth batch of interns from Cameroon, Chad, the Democratic Republic of the Congo and Gabon completed their training at the Centre in March 2006. The eighteenth group of interns, from Cameroon, the Central African Republic, Chad and the Democratic Republic of the Congo completed their training in June 2006, and the nineteenth group, consisting of interns from Burundi, Cameroon, the Central African Republic and Equatorial Guinea are expected to complete their training in September 2006. To date, 54 interns have benefited from the training programme at the Centre.

5. Information and documentation

15. The Information and Documentation Unit of the Centre continued to publish and distribute the *Bulletin des droits de l'homme et de la démocratie*. During the period under review, it published and distributed the fourteenth and fifteenth issues of the *Bulletin*.

16. As in the past, the Documentation Centre provided services to users and visitors and received several new publications from various sources, including the United Nations system.

B. Support to the International Conference on the Great Lakes Region

17. OHCHR support to the International Conference on the Great Lakes Region, through the secondment of a human rights officer, has resulted not only in the successful mainstreaming of human rights in all draft protocols, programmes of action and projects, but also in establishing a legal regional framework. This framework includes draft protocols on: the prevention and elimination of genocide; protection of internally displaced persons; the rights to property of returnees; and the media. In the framework of the continued support of OHCHR to the Conference, the Centre participated in the fourth meeting of the Preparatory Regional Committee in Nairobi, from 30 January to 1 February 2006, and in the third meeting of the Regional Interministerial Committee in Bangui, from 20 to 22 February 2006. During this last meeting, the delegates to the Conference adopted the above-mentioned draft protocols to be approved by the planned Ministerial Conference and second Summit of the Heads of State and Government to be held in Nairobi by the end of 2006.

C. Development of partnerships

1. Collaboration with the Economic Community of Central African States

18. In accordance with the memorandum of understanding signed by OHCHR and ECCAS on 10 July 2002, the Yaoundé Centre continued to invite the ECCAS secretariat to attend the most important events organized under its auspices, especially the subregional workshops and seminars. In this framework, the Secretariat of ECCAS participated in the subregional seminar on "Peacebuilding and conflict prevention" for civil society organizations in Central Africa (see para. 12 above). One of the objectives of this seminar was to provide a platform for civil society actors and policymakers, including ECCAS, to engage and debate the role of civil society in developing effective action in preventing violent conflicts in Central Africa. Participants recommended to ECCAS, inter alia, to develop partnerships with civil society organizations and to cooperate with them to operationalize conflict prevention and management mechanisms, especially the Council for Peace and Security for Central Africa (COPAX), the Central African Early Warning Mechanism (MARAC) and the Central African Multinational Force (FOMAC).

2. Collaboration with United Nations agencies

19. In the context of the implementation of the United Nations policy aimed at integrating human rights into all its programmes and activities, especially through specific programmes such as Action 2, the Centre has developed a close partnership with United Nations country teams in the subregion.

20. On 18 and 25 April 2006, the Centre organized two training sessions in Yaoundé for 40 programme managers of United Nations agencies involved in an exercise aimed at supporting the Government of Cameroon in the revision of its Poverty Reduction Strategy Programme. The objective of this professional training was to ensure that the support provided by the United Nations country team in Cameroon to the Government was rights-based.

21. On the basis of the Cameroonian experience, the Centre organized a subregional workshop on "Human rights-based approaches to development" for the six States members of the Economic and Monetary Community of Central Africa (Cameroon, Central African Republic, Chad, Equatorial Guinea, Gabon and Congo) and Sao Tome and Principe, in Yaoundé, from 26 to 28 June 2006. Twenty participants drawn from United Nations country teams and governmental partners of those countries shared their respective experiences in the implementation of this approach. Five experts from the Centre, the United Nations Children's Fund (UNICEF) and the International Labour Organization (ILO) facilitated the workshop. Participants adopted the "consensus de Yaoundé" on a human rights-based approach to development cooperation. The Yaoundé Consensus recommended to the participating Governments to assess the implementation of human rights treaties at the national level, especially with regard to the submission of reports to the treaty bodies, and to request support from country teams and the Yaoundé Centre in this regard. It also recommended to the country teams concerned to establish thematic groups on human rights; to provide support for strengthening national human rights systems, with the assistance of the Centre; and to submit an annual report on the implementation of these recommendations to the Centre.

3. Collaboration with the Department of Political Affairs

22. Since the General Assembly adopted resolution 54/55 of 1 December 1999 establishing the Yaoundé Centre, OHCHR and the Department of Political Affairs have cooperated in the implementation of preparatory arrangements for its effective functioning. During the period under review, both institutions continued their consultations with a view to strengthening this cooperation. The Africa Division II and OHCHR in New York held intensive consultations in July 2006 to discuss issues of mutual interest with regard to the work of the Centre. These consultations will continue and give the occasion to review the programme of activities of the Centre, in the light of new developments, including the High Commissioner for Human Rights Plan of Action as approved by the General Assembly in November 2005 and the launching of the United Nations Democracy Fund.

III. Conclusion

23. **On the basis of five years of work, the Centre planned to reinforce the already existing activities and initiatives and to adopt new approaches. Its plan of action for 2006 and 2007 reflects the priority thematic issues relevant to the Central African Region, as defined by the High Commissioner for Human Rights' Plan of Action, which includes rule of law and administration of justice, human rights, human security and development, discrimination and institutional capacity-building.**

24. **Within this framework, based on OHCHR general objectives in capacity-building to reduce the knowledge, capacity, commitment and security gaps, the Yaoundé Centre planned to implement the following activities: organization of regional workshops on human rights-based approaches to development; provision of assistance to integrate the rights-based approaches into national programmes, in cooperation with relevant United Nations country teams, especially in the region of the Economic and Monetary Community of Central Africa (CEMAC), and into the activities of the relevant regional economic communities (ECCAS and CEMAC); provision of support to the process of the International Conference on the Great Lakes Region, to Governments in the adoption and/or strengthening of national legislation against all forms of discrimination, as well as to national actors in their programmes aimed at integrating human rights education into schools and academic curricula; and building regional capacity in the fields of human rights and democracy through the implementation of a training programme for civil society organizations and of an internship programme.**